DOCUMENT RESUME

ED 231 068 EA 015 740

TITLE A Perspective on the Status of Teacher/Board Bargaining in Illinois Public Schools and a Review of Public Sector Collective Bargaining Laws in Selected States.

INSTITUTION Illinois State Board of Education, Springfield.

PUB DATE Mar 83

NOTE 166p.; Tables and portions of appendix P may reproduce poorly or not at all due to small, broken, and/or light print of original document.

PUB TYPE Reports - Research/Technical (143)

EDRS PRICE MF01/PC07 Plus Postage.

DESCRIPTORS *Board of Education Policy; *Collective Bargaining; Court Litigation; Elementary Secondary Education; Employee Attitudes; Employer Attitudes; Employer Employee Relationship; *Government Employees; Grievance Procedures; *Labor Legislation; *Labor Relations; Negotiation Impasses; Scope of Bargaining; State Legislation; Tables (Data); Teacher Strikes; Unions

IDENTIFIERS *Illinois; *Public Sector

ABSTRACT

Although Illinois has not enacted a comprehensive bargaining statute, school districts have been using the collective bargaining process to determine teacher salaries, benefits, and conditions of employment for more than a decade. Nevertheless, since the 1977-78 school year, Illinois public schools have experienced 139 teacher strikes. The purpose of this report is to provide information to the State Board of Education for the purpose of considering whether a comprehensive law in Illinois would be helpful in normalizing the relationships between teachers and school boards. The first two sections of the document contain a variety of data: a brief discussion of the status of teacher/board bargaining in the state; legislative principles set forth by the State Board of Education; a summary of state statutes that directly affect the teacher/board bargaining process; a comparison of two recently defeated comprehensive collective bargaining bills; and the preferences of the Illinois Association of School Boards regarding any bill that might pass in the Illinois General Assembly. The next section of the report explains the methodology and presents the findings from a study of nine states (selected because of their comparability to Illinois) that have collective bargaining laws covering public school teachers. The extent of strikes and the unique features of each state in regard to collective bargaining are described. The text concludes with staff observations gained from the study, and labor and management viewpoints concerning various bargaining statute provisions. Extensive appendices include sample questionnaires, surveys, and summaries of court cases. (MLF)

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A Perspective on the Status of Teacher/Board Bargaining in Illinois Public Schools and a Review of Public Sector Collective Bargaining Laws in Selected States

EA 015 740

A PERSPECTIVE ON THE STATUS OF TEACHER/BOARD BARGAINING IN ILLINOIS PUBLIC SCHOOLS AND A REVIEW OF PUBLIC SECTOR COLLECTIVE BARGAINING LAWS IN SELECTED STATES

ILLINOIS STATE BOARD OF EDUCATION
Recognition and Supervision Department
Planning, Research, and Evaluation Department
Research and Statistics Section
Planning/Policy Analysis Section
March, 1983

Edward Copeland, Chairman
Illinois State Board of Education

Donald G. Gill
State Superintendent of Education

TABLE OF CONTENTS

INTRODUCTION 1

Purpose of Study 1
Status of Teacher/Board Bargaining in Illinois 2
Legislative Principles 2
Goal Statements 3

SURVEY OF LEGISLATIVE ACTIVITY IN ILLINOIS 4

Analysis of S.B. 646 and H.B. 1345 6
IASB Preferences 9
Survey of Other States 10

METHODOLOGY 19

Data Collection Procedures 19
Definitions of Collective Bargaining Terms 21

A SUMMARY OF PUBLIC SECTOR COLLECTIVE BARGAINING LAWS IN SELECTED STATES 26

Coverage/Rights/Recognition 26
States with Collective Bargaining Laws 26
Scope of Bargaining 26
Administration of Collective Bargaining Statutes 27
Unfair Labor Practices 27
Grievance Procedure 28
Impasse Procedures 28
Strikes/Penalties 30
Illinois H.B. 1345 and S.B. 646 34

LABOR-MANAGEMENT BARGAINING ATTITUDES IN ILLINOIS 35

Areas of Disagreement 35
Areas of Agreement 35

STAFF OBSERVATIONS 37

APPENDIX A (Primary Features of Selected States' Teacher Collective Bargaining Laws) 38

APPENDIX B (Judgements and Opinions of State Teacher Organizations and School Board Associations Regarding Their State Teacher Collective Bargaining Law) 43

APPENDIX C (Survey of Collective Bargaining Statutes in Selected States - List of Telephone Interviewees) 45

APPENDIX D (Illinois Court Decisions Re: Collective Bargaining) 46

APPENDIX E (State Board of Education Collective Bargaining Principles) 52

APPENDIX F (Review of State Statutes Concerning Strikes) 53

APPENDIX G (Scope of Bargaining) 54

APPENDIX H (Invited to Attend May 5, 1982, Meeting) 55

APPENDIX I (Invited to Attend August 10, 1982, Meeting) 56

APPENDIX J (Status and Perceived Functioning of Collective Bargaining Laws in Nine Selected States) 58

APPENDIX K (Explanation of P.A. 82-107) 94

APPENDIX L (Public School Districts With Teacher Work Stoppages) 96

APPENDIX M (Positions of the Parties Involved in Teacher/Board Bargaining) 102

APPENDIX N (School District Compliance With Minimum Calendar Requirements Following a Teacher Strike - A Telephone Interview) 105

APPENDIX O (Survey of Teacher Strike Information - List of Telephone Respondents) 108

APPENDIX P
Letter from Harold P. Seamon, Executive Director, Illinois Association of School Boards, September 10, 1982 . . . 109
H.B. 1345 115
S.B. 646 135

APPENDIX Q (TCBIS Map - Number and Percentage of Illinois Districts With Negotiated Agreements by County) 150

INTRODUCTION

Purpose of Study

For more than a decade Illinois school districts have been using the collective bargaining process to determine teacher salaries, benefits and conditions of employment. This is not to suggest, however, that during that period teacher/board bargaining has been free of stress or uncertainty or that the public schools of Illinois have achieved a level of labor-management relations that can be used as a model for other states.

One only has to examine the past experiences of a growing list of Illinois school communities to learn that our state school system has had a painful record of collective bargaining episodes that were accompanied by conflict, strikes, arrests, court actions, dismissals, and lost school time.

State Board of Education records indicate that since the 1977-78 school term, state public schools have experienced a total of 139 teacher strikes. These strikes affected almost 1,000,000 students and over 50,000 teachers and also resulted in over 100 interrupted or lost student attendance days each year.

Table 1* Strikes - Five-Year Summary

	Strikes	Average Length	Total Strike Days
1981-82	21	6.2	118
1980-81	36	6.4	235
1979-80	40	5.0	203
1978-79	26	4.2	100
1977-78	16	4.8	67

Over the years there has been continued discussion among parents, teachers, administrators and other interested citizens as to whether or not a comprehensive law in Illinois would be helpful in normalizing the relationships between teachers and school boards.

In this connection, State Board of Education (SBE) staff has made an effort to obtain up-to-date information, attitudes and insights into the status of teacher/board bargaining in both Illinois and other states. The purpose of this review is to provide the State Board of Education with information that may be helpful to it in considering its present and future positions on the matter.

*Strike data collected by field staff of Department of Recognition and Supervision.

Status of Teacher/Board Bargaining in Illinois

During 1979, State Board of Education staff, as a result of a one-year federal grant from the National Center for Educational Statistics, developed a Teacher/Board Collective Bargaining Information System (TCBIS). In addition to salary information, the TCBIS presents annually contract information for all public school districts with signed collective bargaining agreements. Other products of the TCBIS are (1) A Financial Profile of Public School Districts, (2) microfiche copies of all existing teacher/board agreements, and (3) a computer file of all data elements.

The intent of the TCBIS is to provide school personnel and others with a complete and concise analysis of the signed agreements which exist throughout the public schools of Illinois.

The following are excerpts from the February, 1982, TCBIS report:

- 487 (48%) Illinois public school districts have signed written agreements with their teachers.
- The 487 signed agreements cover 85% of the full-time public school teachers in the state.
- There are still 522 school districts that employ 15% of the full-time teachers without signed agreements.
- In the 1981-82 school term, 28% of the signed agreements were for one year; 41% for two years; and 16% for three to five years.
- The IEA represents 44% and the IFT, 38% of the full-time teachers in districts with signed agreements. This does not include 1982-83 membership data.
- 355 (73%) of the 487 signed agreements reflect contract provisions that include some life insurance, sick leave, tax shelters, retirement, health insurance, and personal leave.
- 316 (65%) of the signed agreements include a scope of bargaining provision that refers to salaries, fringe benefits, and other working conditions.
- 168 (34%) of the signed agreements include a provision calling for binding arbitration of grievances.

Legislative Principles

During 1979 the State Board of Education also established a number of legislative principles related to various issues that are from time to time before the legislature.

The following five legislative principles were set forth regarding collective bargaining:

1) That a legal Illinois framework establish the right of employees to achieve recognition and bargain with local boards of education, and

2) That both parties to any educational labor dispute be required to participate in mediation prior to contract expiration and be afforded maximum opportunity to choose to use any impasse-breaking procedures so long as the final agreement is determined by the parties themselves, and

3) That the scope of negotiations be limited to hours, wages and conditions of employment, but with assurances that boards of education retain management policy prerogatives.

4) That the statute provide a mechanism for defining a ruling on unit determination issues, adjudicating disputes over employee representation and for ruling on unfair labor practices either by employees or employers.

5) That the law encourage mediation and fact finding of contract disputes, but that decision making remain with the board of education and authorized employee groups; and further, that strikes by teachers and other employees be legal only after state or federal mediation and fact finding have been provided and failed.

Goal Statements

In February of 1980 the State Board of Education reiterated a set of Goal Statements which included the following concerning Employee/Employer Relations:

> "All parties of the educational community shall be encouraged to come together in a harmonious, constructive fashion. Employees must have the opportunity to present their economic concerns, suggestions on educational and professional matters, and grievances to an employer.
>
> The State Board of Education has a responsibility to process effective leadership for all parties that constitute the educational community. Realizing that conflicts may arise, the Board shall work towards the development of an orderly format and for the resolution of such conflicts."

SURVEY OF LEGISLATIVE ACTIVITY IN ILLINOIS

Despite the fact that Illinois, along with Colorado, Ohio, and West Virginia, is one of the four de facto employee collective bargaining states, there has been a notable lack of success in passing a collective bargaining statute in the Illinois legislature. In fact, as far back as 1945, Governor Dwight Greene vetoed House Bill 247, a collective bargaining bill which had passed both houses. In his veto message, Governor Greene expressed his belief that collective bargaining was not adaptive to public employees.

Public employee collective bargaining in Illinois gained impetus, however, in 1973 when Governor Daniel Walker issued Executive Order #6, which granted state employees the right to bargain wages, hours, and certain conditions of employment not regulated by law.

While we have not witnessed the enactment of a comprehensive collective bargaining statute in Illinois, there have been a number of bills passed into law which have impacted directly upon the teacher/board bargaining process.

The following summary of statutes points up the fact that while Illinois still may be one of the last large midwest states not to have enacted a comprehensive bargaining statute, there nevertheless does exist an array of recently enacted statutes that provide a threshold for teacher/board bargaining in Illinois public schools.

Representational Elections
Public Act 82-107 (August 1, 1981)
Amends Sections 3-14, 3-14.24, and 10-22.40a of "The School Code"

Authorized the conduct of employee representational elections in Illinois school districts. Also allows for binding arbitration of disputes and the inclusion of service fee provisions (agency shop) in collective bargaining agreements. (House Bill 701.)

Dues Deduction
Public Act 81-1003 (September 22, 1979)
Amended Sections 10-20.5, 17.1, and 24.21.2 of "The School Code"

Authorizes that at the request of an employee, the school board shall withhold dues, payments, or contributions payable by such employee to any employee labor or professional organization... The Board shall pay such withholdings to the specified professional or labor organization. (House Bill 2233.)

Minimum Salary
Public Act 81-108 (July 19, 1979)
Amended Section 24-8 of "The School Code"

Increased minimum salary for a teacher with a bachelor's degree to $10,000 and to $11,000 for a teacher with a master's degree. (Senate Bill 501.)

Required Reporting of Attacks on School Personnel
Public Act 82-693 (November 12, 1981)

Upon receipt of a written complaint, the superintendent is required to report all attacks on school personnel to local law enforcement authorities no later than 24 hours after the occurrence of such act and no later than three days to the Department of Law Enforcement's Uniform Crime Reporting Program. (Senate Bill 612).

Teacher Participation on Inservice Committee
Public Act 81-940 (September 22, 1979)

Requires the regional superintendent to establish an advisory committee to advise on the content, scheduling, and funding of teacher institutes and inservice training programs. One-half of the committee should be comprised of certified teachers. (House Bill 2206.)

Anti-Residency Requirement
Public Act 81-151 (August 1, 1979)

Mandates that residency within any school district shall not be considered in determining the employment or compensation of a teacher or whether to retain, promote, assign, or transfer that teacher. Applies only to school districts having less than 500,000 inhabitants. (House Bill 1679.)

Early Retirement Allowance
Public Act 81-150 (August 1, 1979)
(Senate Bill 375)

Allows persons who have worked long enough to have a vested right to retirement benefits to purchase the right to retire at an earlier age without the age penalty. (Public Act 82-0947) extended option for downstate teachers through 1990 - House Bill 1108.)

Hearing Officer Dismissal Process
Public Act 79-561 (August 26, 1975)
(Senate Bill 1371) Amends Section 24-12 of "The School Code"

Provides for the appointment by the State Board of Education of an independent third party who will conduct a hearing and make a decision as to whether or not a teacher shall be dismissed.

Seniority Reduction in Force
Public Act 81-515 (September 9, 1979)
Amended Section 24-12 of "The School Code"

Provides that when it is the decision of the board to decrease the number of employed teachers or to discontinue some type of teaching service... As between teachers who have entered upon continued contractual service, the teacher or teachers with the shorter length of continuing service with the district shall be dismissed first unless an alternative method of determining the sequence of dismissal is established in a collective bargaining agreement... (Senate Bill 624) Senate Bill 793)

Public Hearings on Reduction in Force
Public Act 81-776 (September 16, 1979
Amends Section 24-12 of "The School Code"

Provides for a public hearing on the question of teacher dismissals and a majority vote of the board whenever the number of honorable dismissal notices based upon economic necessity exceeds 5, or 15% of the average number of teachers honorably dismissed in the preceding three (3) years. (House Bill 1596)

Extention of Tenure
Public Act 81-520 (September 10, 1979)
(Senate Bill 566)

Extended tenure age from 65 years of age to 70.

Analysis of S.B. 646 and H.B. 1345

During the past two years, both the Illinois Education Association (IEA) and the Illinois Federation of Teachers (IFT) have thrown their support behind a comprehensive collective bargaining bill proposed in the Illinois General Assembly.

In 1980, the IEA supported S.B. 646, which passed in the Senate only to fail in the House. Conversely, in 1982, the IFT supported H.B. 1345, which passed in the House but failed in the Senate.

While it may be inaccurate to suggest that these two bills represent the current position of the two major teacher organizations in Illinois in regard to future bargaining legislation, it is instructive to note the similarity of the various provisions set forth in each bill.

	S.B. 646	H.B. 1345
1. Permits strike.	X	X
2. Coverage includes public school employees; elementary, secondary, higher education.	X	X
3. Establishes an Employee Relations Board.	X	X
4. Defines Scope of Bargaining to include wages, hours and working conditions.	X	X
5. Lists unfair labor practices.	X	X
6. Indicates that binding arbitration of grievances is negotiable.	X	X
7. Impasse provision includes:		
mediation	X	X
fact finding	X	X
voluntary interest arbitration	X	X

8. Sets forth the right of the employee and the duty of the employer to bargain.	X	X

The following table depicts some of the features of these two bills.

Table I

	Negotiation	Mediation	Fact-Finding	Arbitration	Strikes
S.B. 646	If no agreement by 90 days prior to start of school year, parties shall notify PERB of status of negotiations.	After a "reasonable period of negotiation" and within 45 days of start of school year, if there is an impasse, either party may request of PERB mediation, or PERB may offer it. If no agreement within 15 days of start of school year and no request, board shall invoke mediation.	Within 25 days of start of school, parties may request fact-finding. Report must be publicized; PERB pays cost. Fact-finder may mediate.	Within 30 days of start of school, parties may agree to binding arbitration.	Strikes are permitted if: -Mediation and fact-finding procedures were unsuccessful. -5 days notice of intent to strike given. -Collective bargaining agreement has expired. If there is "clear and present danger" to public, employer may seek court injunction.
H.B. 1345	If after a reasonable period of negotiation or within 30 days of expiration of agreement, a dispute exists...	Either party may petition board to initiate mediation and fact-finding. Fact-finders appointed from Educational Employees Labor Mediation Roster. Costs of fact-finding procedures to be borne by PERB. Fact-finder may mediate.		Nothing in Act prevents parties submitting to final and binding arbitration.	Not prohibited after collective bargaining processes set forth in law have been used. No other requirements or any penalties stated in law.

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IASB Preferences

While the Illinois Association of School Boards (IASB) is opposed to the enactment of a collective bargaining statute that would affect Illinois public school districts, it has indicated to state staff what that organization's preferences are regarding any bill that might pass in the Illinois General Assembly. (See Appendix P).

Included among a number of specifically described essential components for any bargaining statute are the following IASB preferences:

1. School districts should not be required to make up calendar days lost due to strikes.

2. The courts should be empowered to grant injunctions when strikes become a danger to health, safety, and welfare.

3. It would be unnecessary and duplicative to establish a new administrative agency to supervise a teacher-only bargaining statute.

4. There should be no mandatory/binding third-party intervention. Would accept mediation.

5. A clear and detailed summary of unfair labor practices.

6. Would accept multi-year contracts for no more than three years.

Survey of Other States

State Board of Education staff identified and surveyed twelve states that had special relevance and comparability to Illinois. It was later determined that three of the twelve did not have collective bargaining laws covering public school teachers.

The objectives of this aspect of the study were to identify unique features of selected states' bargaining statutes and to also obtain candid reactions from principal parties as to "how their law is functioning."

The following tables portray a summary of the extent of strikes in each state and the unique features of existing bargaining statutes.

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Table 2

NUMBER OF PUBLIC SCHOOL (K-12) TEACHER STRIKES BY STATE AND SCHOOL YEAR

School Year	Illinois	N.Y.	Pennsylvania	Michigan	California		Minnesota	Iowa	Wisconsin	Oregon	Ohio	Texas	Indiana
1970-1	15	9	35	25	4	(8)*	0	0	7	0	8	0	NA
1971-2	11	13	28	9	-	(-)	0	1	1	0	10	1	NA
1972-3	16	11	31	16	4	(4)	0	0	13	1	12	0	NA
1973-4	6	5	27	50	14	(16)	1	0	18	0	30	0	NA
1974-5	12	7	34	23	7	(7)	NA	0	3	1	23	0	NA
1975-6	26	20	48	11	4	(4)	6	0	2	1	13	0	5
1976-7	25	4	39	6	16	(17)	0	0	3	0	16	0	1
1977-8	16	5	21	29	4	(4)	3	0	0	2	22	0	3
1978-9	26	4	18	30	9	(19)	2	0	0	3	22	0	6
1979-80	40	3	30	70	11	(20)	2	0	0	1	25	0	5
1980-1	36	4	31	37	6	(7)	0	0	0	1	28	0	1
1981-2	21	3	25	13	1	(2)	35	0	0	0	1	0	0
MOST RECENT 7-YEAR PERIOD: 1975-6 THROUGH 1981-2													
Total #	190	43	212	196	51	(73)	48	0	5	8	127	0	21
Mean	27.1	6.1	30.3	28	7.3	10.4	6.9	0	0.7	1.1	18.1	0	3
		Median=4											

Note: The number of teacher strikes for each state was provided by the respective State Education Agency, with three exceptions. The number of teacher strikes in California was provided by the California Teachers Association; the number of teacher strikes in Illinois from 1970-1 through 1974-5 was provided by the National Education Association; and the number of teacher strikes in Indiana was provided by the Indiana Education Employment Relations Commission.

* The numbers within parentheses for California include all work stoppages.

TABLE 3

FEATURES OF PUBLIC EMPLOYEE COLLECTIVE BARGAINING LAWS IN SELECTED STATES

State	Employees Covered	Administration	Dues Deduction	Scope of C.B.	Impasse Procedures	Grievance Procedures	Management Rights	Strikes/Penalties	Unfair Labor Practices
Oregon	Public employees. Some exceptions.	Employment Relations Board (ERB): 3 members appointed by the governor. State Conciliation Service (SCS) under ERB.	1) Dues checkoff if Teacher authorizes. 2) Service fee, may be bargained.	"Employee relations": Includes monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment."	1) Mediation (minimum 15 days), requested by either party or ERB, provided by SCS. 2) Fact finding if requested by either party or ERB. 3) Post fact finding mediation can occur.	To be bargained. May include final binding arbitration.	None specified.	Strikes permitted 30 days after rejection of fact-finder's recommendations and 10 days notice; if strike threatens "public welfare", employer may petition court for injunctive relief. Penalty for prohibited strike fine via court determination.	Lists 9 employer and 6 employee practices, including violation of contract. Injured party may file complaint with ERB.
Minnesota	Public employees. Some exceptions.	PERB: 5 members P.T., nonsalaried, appointed by governor. Bureau of Mediation Services (w/F.T. director).	1) Dues checkoff if teacher authorizes. 2) Service fee (85% of dues) if union requests.	"Terms & conditions of employment": means hours, compensation, fringe benefits (excluding retirement), personnel policies affecting working conditions, and grievance procedures.	1) Mediation (minimum 60 days), requested by either party. 2) Impasse (45 days). Mediation may occur.	Contracts must include compulsory binding arbitration of grievances.	Not required to negotiate matters of inherent management policy.	Strikes permitted after exhaustion of mediation and impasse periods (105 days) and 10-day strike notice; strike must start between 11-30th day after notice.	Lists 11 employer and 15 employee practices, including violation of grievance procedures (employer), and prohibited strike. Recourse for injured party not specified.
Wisconsin	Local public employees. Some exceptions.	Wisconsin Employment Relations Commission (WERC): 3 full-time members appointed by governor.	1) Service fee may be bargained. 2) Dues checkoff required when fair-share exists in contract.	"Wages, hours, and conditions of employment": matters primarily related to these are mandatory issues for bargaining.	1) Investigation of impasse by WERC & mediation of dispute upon request of either party. 2) Arbitrator holds hearings & mediates dispute. 3) Compulsory binding (final offer) arbitration.	To be bargained. May include final binding arbitration.	No specific topic.	Legal strike can occur after a 10-day notice only if both parties withdraw their final offer during arbitration.	Lists 7 employer and 6 employee practices, including violation of contract. Complaints are filed with WERC.

State	Employees Covered	Administration	Dues Deduction	Scope of C.B.	Impasse Procedures	Grievance Procedures	Management Rights	Strikes/Penalties	Unfair Labor Practices
Pennsylvania	Public employees. Some exceptions.	P.E.R.B. 3 member part-time board, appointed by governor, advice & consent of Senate.	Is a bargaining issue, but only for union or association members, and only by individual written consent.	"Wages, hours, and other terms and conditions of employment": or the negotiation of an agreement or any question arising thereunder and the execution of a written contract incorporating any agreement reached.	1) Mediation (30 days) by PMB required. 2) Factfinding is required if impasse not resolved by mediation. 3) Parties may submit to binding arbitration.	Rights arbitration is mandatory.	None specified.	Strikes are legal when steps one through three have been completed. If strike presents a danger or threat to life, safety or welfare of the public, the employer shall initiate legal action. Penalties: possible contempt of court, suspension, loss of pay, or fine.	Law specifies nine (9) employer and nine (9) employee unfair practices. Complaints are filed with the P.E.R.B.
Indiana	Public school teachers.	Education Employment Relations Board; 3 members appointed by governor; only chairman full time.	Authorized. Agency shop illegal.	Required: salary, wages, hours, and wage-related fringe benefits. Law lists other topics for mandatory discussion.	Parties may request mediation and fact-finding from EERB; EERB may initiate both.	To be bargained; may include final binding arbitration.	Seven rights listed.	Strikes prohibited. Penalties: union loses dues deduction privileges for a year, teachers lose day's pay, make-up days not required.	Lists 6 for employer and 4 for employee organization. EERB handles complaints of unfair practices.
Michigan	Public employees. Some exceptions.	Employment Relations Commission; 3 part-time members appointed by governor.	Required; service fee within scope of C.B.	Wages, hours, & other terms and conditions as defined by ERC and courts.	ERC provides mediation and fact-finding services upon request of parties or on its own initiative.	ERC shall mediate grievances upon petition.	None specified.	Strikes forbidden; employee who strikes may be fired or have other discipline imposed; such employees have rights to administrative and court review.	Lists 4 types for public employers and 3 for labor organizations. ERC remediates charges of unfair practices.

State	Employees Covered	Administration	Dues Deduction	Scope of C.B.	Impasse Procedures	Grievance Procedures	Management Rights	Strikes/Penalties	Unfair Labor Practices
New York	Public employees. Some exceptions.	Public Employee Relations Board; 3 members appointed by governor; only chairman full-time.	Required by law; agency shop is required item for bargaining.	"Salaries, wages, hours, agency shop fee, and other terms and conditions of employment": as defined by PERB and courts.	Parties empowered to develop impasse procedures, including arbitration. In absence or failure of such procedures, parties may request mediation then fact-finding from PERB. PERB may initiate assistance.	Required to be bargained. Law encourages having arbitration.	None specified.	Strikes prohibited. Employee loses 2 days pay for each day on strike and subject to dismissal. Union subject to suspension of dues deduction and agency shop fee, if any.	Standard provisions: Lists 2 types for public employee organizations and 4 for employers. PERB adjudicates improper practice charges.
Iowa	Public employees. Some exceptions.	P.E.R.B. consists of 3 members, appointed by the governor for a 4-year term.	Bargainable issue. If agreement provides for dues checkoff, individual members must authorize; may discontinue with 30-day notice.	Wages, hours, vacations, insurance, holidays, leaves, shift differentials, overtime and supplemental pay, seniority, transfers, job classifications, health and safety matters, evaluations, RIF, and in-service training.	1) Mediation (10 days) upon request of either party. 2) Fact-finding required if impasse continues. 3) If impasse continues, either party may request binding arbitration.	This is a bargainable issue and may provide for binding arbitration.	Specifies nine (9) management rights.	Prohibited by law. Employer or citizen may take injunctive action. Contempt could result in fines, incligibility for employment for 12 months; decertification of organization for 12 months.	Specifies ten (10) management and labor unfair practices.
California	Public employees. Some exceptions.	P.E.R.B. 5 members, full-time; appointed by governor; advice & consent of Senate. Hearing officers under P.E.R.B. 5 yr. terms.	Dues deduction if employee given written authority. Fair share or agency shop is negotiable.	Shall be limited to matters relating to wages, hours of employment, other terms and conditions of employment. Terms and conditions defined as health & welfare benefits, leave, transfer & reassignment, safety conditions, class size, procedures for evaluation, organizational security, procedures for processing grievances, & layoff of probationary certified teachers.	After negotiating to impasse, either party may request mediation. PERB must appoint mediator within 5 days (cost provided by PERB. 15 days after mediation, fact-finding. Within 5 days after call, select panel. Within 10 days, meet with both parties. (cost of panel borne by PERB.) Binding arbitration is negotiable; also permissive in lieu of agreement.	Procedure is a bargainable issue.	None specified.	Line 923 in Labor Code does not allow strikes in public sector. Withholding services is an unfair labor practice. PERB has the power to remedy, including damages.	List 5 employer and 4 employee unfair labor practices.

TABLE 1.

IMPASSE PROCEDURES OF SELECTED STATES' COLLECTIVE BARGAINING LAWS

State	Negotiation	Mediation	Mediation-Arbitration: Investigation	Mediation-Arbitration: Mediation Period	Mediation-Arbitration: Arbitration Period	Strike
Wisconsin	Notice of commencement of contract negotiations is to be sent to WERC (Wisconsin Employment Relations Commission). Initial proposals are presented at "open public" meeting and to other party in writing.	"Reasonable period of time." Provided free by WERC upon request of either party.	Upon request by either party, WERC investigates status of impasse. Each party must submit a single final offer covering all mandatory issues of dispute. Mediator-Arbitrator chosen by parties from list of 5 submitted by WERC. Cost is shared equally by parties.	Within 10 days of appointment, mediator-arbitrator sets dates and places for sessions. "Final offers" of each party serve as initial basis for mediation and voluntary settlement of dispute.	Arbitrator serves written notification to resolve dispute via final binding arbitration. May conduct open public meeting explaining both offers. Arbitrator adopts final offer (total package) of one party which is binding and incorporated into contract.	Strikes are permitted to occur after a 10-day notice only if both parties withdraw their final offer during arbitration.

State	Negotiation	Mediation	Fact-Finding	Fact-Finding Report	Post Fact-Finding Mediation	Strike Notice	Self-Help
Oregon	No time limit, but parties are urged to expedite process. If after a reasonable period of time no agreement is reached, either party shall notify the Employment Relations Board (ERB) of the status of negotiations.	15 days minimum. ERB (SCS) mediates at request of either party at no cost. May include permissive issues.	No set time for hearings; 30 days after hearings f-f to issue recommendations; parties given 5 days to select own f-f or ERB submits list of 5 to choose from.	5 days to accept or reject. If rejected, ERB publicizes.	30 days wait (cooling off) before right to strike. Mediation may continue during this time.	10-day notice of intent to strike. May occur during 30-day "cooling off" period.	Teachers may strike; school board may impose last offer; both parties may agree to binding arbitration

State	Negotiation	Mediation	Impasse	Strike Notice	Strike
Minnesota	All contracts are for two years, expiring on June 30 of odd years.	60 days minimum, with 30 occurring after expiration of contract.	45 days; mediation may occur. Arbitration may be used if both parties agree.	10-day notice of intent to strike.	Strike must occur between 11th through 30th day after notice (or another notice served).

State	Negotiation	Mediation	Fact-Finding	Next Steps
Michigan	At least 60 days before expiration of C.B. agreement, both parties shall notify ERC of status of negotiations.	30 days after notifications and request for mediation not received, ERC shall appoint mediator.	If ERC thinks it helpful in settling, ERC may prepare written findings and make them public. Either party may request fact-finding by ERC if good faith bargaining and mediation are not successful.	Law provides no further steps. By court decision, parties may agree to binding interest arbitration.

State	Negotiation	Mediation	Fact-Finding	Next Steps
New York	Parties are empowered to develop procedures in event of impasse, including going to interest arbitration. An impasse may be deemed to exist if agreement not reached 120 days prior to contract expiration.	Upon request of either party or on its own motion, PERB shall appoint mediator.	If impasse continues, PERB shall appoint fact-finding board, which shall make report, assist toward solution, make public its findings and recommendations.	For school districts, parties may agree to arbitration, and PERB will pay cost.

16

State	Negotiation	Mediation	Fact-Finding	Fact-Finding Report	Voluntary Arbitration	If No Agreement
Indiana	Bargaining between school corporation and exclusive representative shall begin on or before 180 days prior to budget submission (annually in August).	Board shall appoint mediator if either party declares impasse either in scope or substance of any item any time after 180 days has begun. Board shall initiate mediation if no agreement 75 days prior to submission date. Costs shall be borne by PERB. Nothing shall prevent either party from requesting mediation or fact-finding at any time after such 180 days.	If, after five days mediator is unsuccessful, either party may request PERB to initiate fact-finding. PERB shall initiate fact-finding if no agreement 45 days prior to submission date. Costs shall be borne by PERB.	After receiving report, PERB within 5 days may, and within 10 days shall, publicize report.	Parties at any time may submit issues to final and binding arbitration to arbitrator appointed by PERB. Both parties shall reimburse equally PERB for costs.	If no agreement reached 14 days prior to submission, parties shall continue status quo and employer may issue tentative contracts and prepare its' budget based thereon.

State	Negotiation	Mediation	Fact-Finding	Fact-Finding Report	Voluntary Arbitration	Strike/Penalties
Pennsylvania	After 21 days if no agreement has been reached, but in no event less than 150 days prior to budget submission deadline (June 30), and mediation has not been used, both parties shall in writing call for the services of the Pennsylvania Mediation Board (PMB).	Mediation shall continue so long as the parties have not reached agreement. No longer than 120 days prior to budget submission, PMB notifies PERB that no agreement has been reached. PERB must appoint fact-finder(s) panel (1 or 3).	Not more than 40 days after PMB has notified PERB, the fact-finding panel must send by registered mail the findings of fact to both parties and to the PERB.	Within 10 days, both parties must notify the others whether or not they accept the findings. If not, panel publishes report. Not less than 5 or more than 10 days after publishing, both parties must again notify.	Failure to agree may lead to binding arbitration.	Strikes are permitted under certain conditions. When steps one through three of the impasse procedures have been followed, strikes shall not be prohibited. However, should the strike present a clear and present danger or threat to life, safety, or welfare of the public, the employer shall initiate legal action.

State	Negotiation	Mediation	Fact-Finding	Fact-Finding Report	Voluntary Arbitration	Final Agreement
Iowa	It is the duty of the two parties to bargain in good faith to establish impasse procedures. The agreement shall provide for the implementation of the impasse procedures not later than 120 days prior to budget submission date.	In the absence of impasse procedure, or the failure to utilize the procedure, 120 days prior to certified budget submission date, upon request of either party, the shall appoint a mediator. The mediator shall bring the parties together, but may not compel them to agree.	If the impasse remains 10 days following the appointment of a mediator the PERB shall appoint a fact finder. Within or by 15 days of appointment, the fact-finder shall serve the findings on the two parties.	The parties must accept, or within 5 days submit findings to the controlling body for vote. After 10 days and no acceptance, the findings are made public by the PERB.	1) After fact-finder report is made public, parties may continue to negotiate, or either party may request arbitration which is binding. 2) Within 4 days of request, each party will submit to the PERB their final offer on impasse issues. (All costs are shared by the two parties.) 3) Impasse items shall consist of only issues considered by the fact-finder. Awards are restricted to final offers or to the recommendations of the fact-finder. 4) Within 15 days after their first meeting, panel will select the best offer on each impasse item; or on fact-finder recommendations.	1) The selections by the panel of arbitrators and items agreed upon by both parties shall be deemed to be C. B. contract. 2) Panel shall determine by majority vote and shall be final and binding.

17

State	Negotiation	Mediation	Fact-Finding	Fact-Finding Report	Post Fact-Finding Mediation
California	The duty to meet and negotiate in good faith requires the parties to begin prior to adoption of the budget for the ensuing year sufficiently in advance to allow time for the agreement to be reached, or for the resolution of impasse.	Either party may declare impasse and may request the PERB to appoint a mediator. If determined to exist, the PERB shall within 5 working days appoint (PERB pays costs). If parties select mediator, they share costs.	After 15 days of mediation and mediator declares fact-finding appropriate, either party by written notification to the other may request fact finding; within 5 days each party selects members, PERB selects chairman within 5 days. Within 10 days after appointment, panel must begin meetings.	Within 30 days (or longer if mutually agreed), the panel shall make known findings and recommendations for settlement, which are advisory only. The employer will make the findings public within 10 days of receipt. (Cost for selected members is borne by parties; PERB pays for chairman.)	The PERB appointed mediators can continue to try to cause settlement on findings of fact.

METHODOLOGY

This section presents the procedures utilized in obtaining teacher collective bargaining and teacher strike information from selected states. Also listed are definitions of relevant collective bargaining terms.

Data Collection Procedures

Survey of Collective Bargaining Laws in Selected States.

Two interview questionnaires were developed to identify the important features of selected states' collective bargaining laws (Form A) and to obtain opinions/judgments about "how the law is functioning" (Form B).

Questionnaire Form A consists of 17 questions and is shown in Appendix A. This questionnaire was completed by first studying the collective bargaining statute of each selected state and then conducting a telephone interview with a member of the Public Employment Relations Board (PERB) in the same state. The PERB administers the collective bargaining law. Questionnaire Form B, consists of essay questions and is presented in Appendix B. This questionnaire was completed by conducting a telephone interview with a state-level representative from each of the following three organizations: National Education Association (NEA), American Federation of Teachers (AFT), and the American Association of School Boards (AASB). Frequently it was necessary to interview persons in other agencies to obtain additional information regarding specific aspects of collective bargaining and labor/management relations.

The twelve states selected are listed below and were chosen because of their comparability or special relevance to Illinois.

1. Indiana
2. Wisconsin
3. Minnesota
4. Michigan
5. Iowa
6. California
7. Pennsylvania
8. New York
9. Oregon
10. Texas
11. Ohio
12. Missouri

During the initial reading of each state's CB law, it was determined that three of these states (Ohio, Texas, and Missouri) do not have a CB law covering public school teachers. Consequently, the completion of questionnaire forms A and B, via telephone interviews, focused upon respondents in the remaining 9 states. A list of the persons interviewed is presented in Appendix C. All telephone interviews were conducted in September and October 1982.

Survey of Teacher Strike Information in Selected States.

A third interview questionnaire was developed to obtain teacher strike information in selected states. The final form of this instrument is shown in Appendix N. State education agency (SEA) respondents were selected by calling each Chief State School Officer's administrative staff, explaining

the nature of the questionnaire, and requesting the name of the most appropriate person to interview. In most instances, it was necessary to interview more than one person in each SEA in order to complete the questionnaire. Frequently, it was also necessary to interview persons in other agencies (i.e., Public Employee Relations Board, Mediation Board, Teachers Association/Union, and School Board Association) to obtain more complete information regarding state statute's references to teacher strikes and specified impasse procedures. The names and employment titles of all interview respondents are listed in Appendix O.

Definitions Of Collective Bargaining Terms

Agency Shop:	This term is used when employees who are not members of an employee organization, but who are represented by it during the bargaining process and in the administration of a bargained agreement, are required to pay a service fee to the organization.
Arbitration:	A procedure whereby parties unable to agree on a solution to a problem (i.e., at impasse in a contract negotiation or a grievance procedure) will be bound by the decision of a third party.
Bargaining Unit:	A group of employees organized as a single unit and having the right to bargain, through their designated representative(s), with the employer.
Certificated/ Certified Employees:	As the term applies to education: a teacher, supervisor, principal or other administrator who must hold a state certificate in order to be employed in the profession.
Certification:	As the term applies in the recognition process: designation, by an authorized person or agency, of the employee organization representing a bargaining unit as an "exclusive representative" for bargaining purposes.
Classified Employee:	For the purposes of the chart in this book, a classified employee is one who is below the rank of teachers, i.e., food employees, bus drivers, clerks, maintenance personnel, etc. Not to be confused with state-level classified employees, i.e., civil service positions that may be "classified" from bottom to top.
Community of Interest:	As used in determining an appropriate bargaining unit: similar work, interests, salaries, concerns, etc.
Conciliation:	See Mediation.
Contract:	A written agreement of terms and conditions of employment arrived at through the bargaining process. Also Memorandum of Agreement, Memorandum of Understanding.
Court Review:	The means through which a court of appropriate jurisdiction may consider and rule upon actions or findings of a labor relations board or other involved agency or individual.

Decertification:	The withdrawal of authorization as an exclusive representative from an employee organization. May occur when another employee organization successfully challenges the qualifications of the first organization, or a penalty for violation of law, rule or regulation.
Dues Checkoff:	Deduction of employee organization dues from members' paychecks for remission to the organization treasury. Some state laws do not permit this practice; others do. When permitted, the dues deduction procedure often is negotiated as part of the contract between employer and employee bargaining unit.
Employee Organization:	A group of similar employees organized for the purpose of bargaining their salaries, wages and terms and conditions of employment with their employer. Most teacher organizations are affiliated with the National Education Association or the American Federation of Teachers. Often used interchangeably with union in the area of labor relations.
Exclusive Representation:	An employee organization has exclusive representation when it is recognized by the employer, for bargaining purposes, as the sole representative of the kinds of employees who are members of the bargaining unit.
ract-Finding:	The process of gathering and analyzing accurate facts, information and testimony to be used as a basis for recommendations for the resolution of a bargaining impasse or grievance charge.
Fair Share Fee:	An amount proportionate to members' dues in an employee organization that is paid to the organization by non-members who are, nevertheless, represented by the organization in a bargaining relationship. Such non-members are a part of the bargaining unit, but not of the employee organization that represents them. A form of service fee, based on the proportion of dues that is directly related to the services the non-member employee receives from the organization. Often negotiated.
Grievance:	An allegation by an employee or by the employee organization that the employer or one of its agents, often in the process of implementing a contract, is guilty of misapplication, misinterpretation or violation of one or more specific provisions of the existent contract.

Impasse:	That stage in negotiations at which two parties are, or appear to be, unable to achieve agreement on the issues still on the bargaining table. There is an apparent lack of agreement among state laws and among state labor relations personnel as to the point at which impasse occurs: when mediation has failed, or when fact-finding has failed.
Impasse Resolution:	A process aimed at resolving disagreements that occur during the bargaining of a contract. Three steps may be, but are not necessarily, involved: mediation, fact-finding, and arbitration. Also known as interest resolution.
Injunctive Relief:	An order by a court to perform or cease to perform a specific activity.
Interest Resolution:	See Impasse Resolution.
Intervention/ Intervenor:	A challenge to an employee organization's right to be an exclusive representative for a bargaining unit. May be issued by a competing organization or one or more employees. Most state laws limit the times for such intervention to specific points in the establishment of a bargaining relationship, during or after the term of a contract.
Legislative Body:	A policy-making body that has the authority to levy taxes and/or make appropriations.
Maintenance of Membership:	A requirement that employees who are members of an employee organization that has been certified as an exclusive representative remain members during the term of a bargained contract.
Management Rights:	Certain rights, privileges, responsibilities and authority requisite to the conduct of an enterprise by its management.
Mediation:	That form of impasse resolution (usually implemented first) in which a third party meets with the two parties involved in the dispute, together and/or separately, in order to perform a catalytic function in an effort to help the parties reach an agreement.
Memorandum of Agreement:	See Contract.
Memorandum of Understanding:	See Contract.

Middle Management:	For the purposes of the chart in this book, the term encompasses personnel from supervisors to a level just below top management.
Nonprofessional Employee:	Most often, a lower-level employee whose work is routine, the performance of which is not dependent on specialized education at the postsecondary level or equivalent experience.
Organizational Security:	See Union Security.
Professional Employee:	Most often, a higher-level employee whose work is not routine or measurable, the performance of which is dependent on specialized education at the postsecondary level or equivalent experience.
Recognition:	The accomplishment of the status, by the employee organization with the employer, of collective bargaining agent for a unit of defined extent.
Representation Election:	An election held to identify an appropriate employee organization as the exclusive representative of employees in a defined bargaining unit. The employee organization receiving a majority of votes is the winner.
Scope of Bargaining:	Bargainable items--the limits, if any, of the appropriate subject matter for bargaining. If such are not set by law, they are determined by the interaction at the bargaining table. If there is not agreement on the scope of bargaining, decisions may be made by a public employment relations board, other administering agency, individual or by an appropriate court.
Service Fees:	A sum of money paid to the bargaining unit by nonmember employees who are, nevertheless, represented by the bargaining unit. Some state laws permit these fees; others do not. Service fees may be equal to a unit member's regular dues; they may be a certain percentage of these dues; they may be equal to that portion of membership dues that are used to cover the expense of negotiating and administering a contract. In some states, nonmembers represented by a negotiating unit who have valid religious objections to the payment of service fees to an organized bargaining unit may be granted an exemption from the requirement; or their service fees may be remitted to an appropriate charity.

Showing of Support/ Interest:	Submission of evidence by an employee organization wishing to represent a bargaining unit that it has adequate support/interest/membership from personnel in the bargaining unit. This may be in the form of signature cards, petition signatures, etc.
Strike:	A concerted work stoppage, usually used as an effort at the time of impasse to accomplish a contract on terms acceptable to the union.
Supervisor:	An individual who, using independent judgment, directs other employees and has a voice in their employment, reward, discipline, dismissal and grievances.
Union:	An employee organization that has as one of its purposes the bargaining of terms and conditions of employment with an employer. In this book, used interchangeably with Employee Organization.
Union Security:	A blanket term for rights, granted to a union by law or agreement, that reinforce its position as exclusive representative. Dues deduction and service fees are forms of union security, as are specified periods of time during which the union's standing as exclusive representative may not be challenged.
Union Shop:	This term applies when an employee is required under the terms of a bargained agreement to become a member of the bargaining unit within a short time after initial employment in order to retain the job. Membership must be maintained during the term of the bargained agreement. In rare cases, union shops are permitted under state law.
Unit Determination:	The process of deciding which employees will be in a proposed bargaining unit. Criteria for determination include community of interest, practicality. In some states, units are specifically defined by law.
Unit Modification:	A change in the composition (kinds of employees) of a bargaining unit.

A SUMMARY OF PUBLIC SECTOR COLLECTIVE BARGAINING LAWS IN SELECTED STATES

Coverage/Rights/Recognition

Nine of the 12 states identified for study have a comprehensive collective bargaining (CB) law covering teachers. These states with and without CB laws are listed below. The classification of employees covered by these statutes generally included public employees. Only one state, Indiana, limits coverage to educational employees.

States with CB Laws			States with no CB Law
New York	Wisconsin	Minnesota	Missouri
Pennsylvania	Iowa	California	Ohio
Michigan	Indiana	Oregon	Texas

In all nine statutes, teachers (public employees) have the right to form and join a labor or employee organization and to designate an exclusive representative for negotiation purposes. In addition, all statutes recognize this designated (certified) representative and clearly indicate it is the duty of the employer to negotiate (in good faith) with this exclusive representative of the employees. Furthermore, all statutes specifically state that refusal to negotiate (in good faith) by either the employer or employee representative is an unfair labor practice.

Scope of Bargaining

The scope of bargaining is important and controversial among the participants because the topics (issues) specified in the law are mandatory for inclusion in negotiations and subsequently the written agreement. Conversely, topics (issues) omitted in the collective bargaining statute, and not expressly prohibited elsewhere by statute, are regarded as "permissive topics" and may be included in negotations and the subsequent contracts only if both parties voluntarily agree. Generally, management representatives prefer a scope which clearly delineates and limits the range of topics, especially conditions of employment, to be negotiated. In contrast, teacher organization representatives generally prefer a broader and less defined range of topics for bargaining.

Eight of the nine statutes studied contained a relatively broad scope which included wages, hours, fringe benefits and conditions of employment. Two of these statutes defined and listed the specific conditions of employment which are to be mandatory items for bargaining. The remaining six statutes opted to use the more general National Labor Relations Act (N.L.R.A.) phrase of "wages, hours and conditions of employment," leaving it to either the PERB or courts to identify the specific conditions of employment and specific fringe benefits which are mandatory bargaining items. The collective bargaining participants generally preferred the PERB, and not the courts, to decide whether specific items are mandatory or permissive subjects for bargaining, as such an approach involves less expense and time delay.

Administration of Collective Bargaining Statutes

All nine state statutes provide for a governing body consisting of three to five members, appointed by the governor, and typically referred to as a Public Employment Relations Board (PERB). The most recent annual budget for the PERB's ranges from almost one million to more than four million dollars. The PERB typically performs the following responsibilities: certifies the employee representative, provides mediation services, administers impasse procedures, defines the scope of bargaining, rules on unit determination, and investigates and remediates charges of unfair labor practices.

In three states, Pennsylvania, Oregon, and Minnesota, mediation services are provided by a state conciliation bureau which is separate from the PERB. There was a difference of opinion among the PERB members as to whether both adjudication and conciliation activities should be conducted by a single agency or two separate agencies.

Unfair Labor Practices

All of the nine statutes studied provide lists of unfair labor practices which vary somewhat, but they do contain several common unfair practices. The most frequently listed unfair labor practices for employers are the following.

To interfere with, restrain, or coerce employees in the exercise of rights granted by the law.

To refuse to negotiate (in good faith) with the duly recognized or certified representative of employees.

To dominate or interfere with the formation or administration of any employee organization.

To encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, or other terms or conditions of employment.

To discharge or otherwise discriminate against an employee because he/she has signed or filed an affidavit, petition or complaint or given any information or testimony under this act.

To violate the provisions of any written contract with respect to wages, hours, and conditions of employment.

To refuse to reduce an agreement reached through negotiations to writing and to sign it.

The most frequently listed unfair labor practices for employees and employee organizations are the following:

To restrain or coerce employees in the exercise of the rights guaranteed in the law.

To refuse to negotiate (in good faith) with a public employer if it, the teacher organization, has been designated as the exclusive representative of the employees.

To restrain or coerce an employer in the selection of its representative for the purpose of negotiating or the adjustment of grievances.

To violate the provisions of any written contract with respect to wages, hours, and conditions of employment.

To refuse to reduce a collective bargaining agreement to writing and sign such agreement.

To violate any of the rules and regulations established by the PERB regulating the conduct of representative election.

To attempt to cause the employer to discriminate against an employee in violation of an employer unfair labor practice.

Charges of unfair labor practices are typically investigated and remediated by the PERB with the opportunity of judicial appeal.

Grievance Procedure

All nine collective bargaining statutes expressly deal with the topic of grievance and permit the use of binding (rights) arbitration if both parties agree. Two states, Minnesota and Pennsylvania, require that collective bargaining contracts provide for binding (rights) arbitration as the final step in the grievance procedure. The other seven states permit the two parties to develop their own grievance procedure at the "bargaining table."

Impasse Procedures

As revealed in Table 4, p. 15, there is considerable variation in the impasse process described in the nine collective bargaining statutes. The only common procedure specified is mediation--the first procedure implemented in impasse. If the negotiation impasse is not resolved via mediation, fact-finding is provided by law either upon the request of one party or the PERB in seven states. Most of the collective bargaining participants indicated that fact-finding is seldom utilized and is less effective than mediation in achieving a settlement. For example, while Pennsylvania statute states that all impasse procedures must be exhausted before a strike is permitted, fact-finding has not been used prior to most strikes.

Binding interest arbitration is permissible in most states, but only two states (Wisconsin and Iowa) require it (final last best offer) as the final resolution to impasse. In Iowa, binding interest arbitration is issue-by-issue and preceded by mediation and fact-finding, whereas in Wisconsin it is "whole package" and preceded only by mediation. While the collective bargaining participants in these two states did not tend to favor binding interest arbitration per se, they generally preferred it to strikes and the alternatives, or lack of alternatives, provided by other states.

The collective bargaining participants in Oregon expressed more satisfaction with the impasse procedures in their statute than did the respondents of other states. A unique and important feature of the Oregon impasse procedure is the 30-day "cooling off" period following unsuccessful fact-finding. During this 30-day period, post fact-finding mediation is introduced by the PERB with frequent success.

A noteworthy finding provided in the annual reports of some PERB's is the high number and high percentage of requests for impasse resolution assistance -- especially mediation services. For those states that provided such information, the statewide percentage of teachers/boards requesting mediation services ranged from about 50% to 95% (Minnesota). Such high percentages indicate that while comprehensive collective bargaining statutes have provided teachers and board members with the "right and duty" to bargain, the same statutes have not been able to ensure either successful negotiations or constructive relationships between the parties. A similar conclusion was presented in the final report of a National Survey of Alternatives to Strike by Public School Employees by the Northwest Regional Educational Laboratory. In summarizing the data, the report states:

> "The perceived factors leading to successful collective bargaining, to the breakdown of the process, have more to do with the context within which bargaining occurs including such issues as trust, open communications, experience, and willingness to compromise; and less to do with the actual operation of a given state statute governing collective bargaining."

In view of the relatively high percentage of teachers/boards reaching impasse, an attempt was made to identify approaches which might facilitate bargaining outcomes and reduce the conflict level. Three such approaches which merit consideration are presented below. It is recognized that these approaches have not been sufficiently tried in the educational setting to reach a conclusion regarding their effectiveness. Furthermore, their applicability to the bargaining model generally used in Illinois, which is patterned after the private sector, has not been tested.

State Level Labor/Management Committee.

In 1977 a Massachusetts Joint Labor/Management Committee for Municipal Police and Fire was formed. The Committee has used various techniques to bring about voluntary settlement of impasses through good faith collective bargaining. Through its efforts, impasses have been resolved more quickly and without resorting as much to binding arbitration. A similar committee has since been created in Indiana for police and fire and is also being considered for the public school sector.

More recently, a Michigan Public Education Labor/Management Advisory Council was formed in the spring of 1982. This council consists of 12 members who represent state-level organizations/agencies which either participate in teacher/board negotiations or are directly affected by such negotiations. A primary goal of this council is to "enhance and improve dispute resolution techniques in the collective bargaining process in education."

Conflict Resolution Approach.

This approach is based upon a sociological theory of conflict applied to the Hostage Rescue Model, which is used by the International Association of Chiefs of Police. The model presents adversaries the opportunity to redirect their destructive potential toward a constructive, collaborative outcome. It promotes the concept that two competing forces can both achieve (win) what they seek without overpowering the other. Some of the principles emphasized by this approach are constructive communication, elimination of destructive behaviors, goal sharing, common problem solving, voluntary yielding, and a "win-win" outcome for all participants. The Conflict Resolution Approach was recently pioneered in a contract negotiation in the Greater Latrobe School District (Pennsylvania) with the cooperation of the Pennsylvania State Education Association and the local board of education. Following about five days of dialogue, labor and management signed a three-year agreement. Each of the three preceding collective bargaining contracts came only after strike situations. The model is being implemented in two other school districts in the near future -- Chichester, Pennsylvania, and Manitowoc, Wisconsin.

Collective Gaining/Integrative Bargaining.

Many names have been applied to this teacher/board negotiation model--collective gaining, integrative bargaining, collaborative bargaining, shared governance. This social psychological approach de-emphasizes confrontational bargaining, an adversarial relationship, and the polarizing of viewpoints/attitudes, and emphasizes the following principles: identification of common problems, open communication, mutual trust and respect, rational problem solving, participative/consensus decision making, and ongoing meetings throughout the school year. When successfully implemented, it reduces conflict (impasse and grievances) significantly. The "gaining committee" is typically composed of teachers, board members, principals, and the superintendent. Some of the school districts which are presently employing this negotiation approach are Forest Park School District #9 (Illinois), Salt Lake City Public School System (Utah), Livermore Unified School District (California), West Lynn, North Clockamos, and Lebanon (Oregon) and several districts in Pennsylvania.

Strikes/Penalties

Frequency of Teacher Strikes.

The number of teacher strikes for each state included in the survey is presented in Table 2, page 11, by school year. During the most recent seven-year period, 1975-6 through 1981-2, Pennsylvania has averaged more public school teacher strikes (30.3 per year) than any other state. Michigan (28 per year), Illinois (27.1 per year) and Ohio (18.1 per year) rank second, third and fourth, respectively. Traditionally these four states have accounted for about 75 percent of all elementary/secondary public school teacher strikes in the nation--based upon the Bureau of National Affair's Government Employee Relations Strike Reports (1977-1981). Most of the remaining 25 percent of teacher strikes occur in six states: Minnesota, New Jersey, California, Washington, New York, and Rhode Island. There has been a sharp reduction in the number of teacher strikes during 1981-82, when compared with preceding school years. This significant decline may be due to a number of factors including the weakened economy, and relatively high level of unemployment.

Statutes and Employee Strikes.

There is wide variation in the statutes regarding the conditions under which employee strikes are permitted or prohibited. The collective bargaining statutes in 4 states (Iowa, Indiana, New York and Michigan) expressly prohibit all strikes under any conditions. The California collective bargaining statute does not explicitly indicate whether teacher strikes are permitted or prohibited. The collective bargaining laws of three states (Minnesota, Pennsylvania, and Oregon) provide the "right to strike" after, and only after, the mandated impasse procedures have been exhausted. The Wisconsin collective bargaining law permits a legal strike only if "both parties remove their 'final offer' from the table during compulsory binding arbitration." In practical terms, the Wisconsin statute provides the employer "veto power" over a teacher strike.

Public Policy Factors.*

A study of strike penalties in the public sector conducted by the Wisconsin University Industrial Relations Research Institute for the U.S. Department of Labor identified three factors exerting influence upon the frequency of public employee (teacher) strikes. These same factors were also identified in this State Board of Education study and are cited in Table 5 as follows:

1. Strike penalties that are consistently enforced can decrease the number of public employee (teacher) strikes. Table 5 discloses that the six states which consistently apply clear-cut penalties for teacher strikes prohibited by statute have significantly fewer strikes than the five states which do not. Whether or not strikes are prohibited by law seems to be inconsequential (e.g., Michigan, Ohio) if there is ineffective application of strike penalties.

2. The use of mandatory alternatives (interest arbitration) can reduce the number of strikes. The two states which require interest arbitration as the final impasse procedure have the lowest average number of strikes (Iowa = 0 and Wisconsin = 0.7) of all the states studied, except Texas. Also, upon legislative removal of a modified "mandatory binding arbitration" procedure in Minnesota, the number of teacher strikes increased sharply from 2.2 (7-year average) to 35 (1981-82).

3. The inability, or at least uncertainty, of making up days (pay) lost during an employee strike can reduce the number of employee strikes. This factor, while having some impact on lessening the number of strikes, is often in conflict with minimum state standards regarding the length of school calendars.

*This study focused exclusively on public policy factors related to the frequency of teacher strikes. Consequently, it did not investigate the causal factors of teacher strikes nor the effect of various bargaining behaviors upon the collective bargaining process.

State educational policy that determines how school aid and lost school days are to be handled when teachers strike has at least as great an impact on teacher strikes as strike penalties included in collective bargaining legislation. As shown in Table 5, the seven states in which teachers are generally unable to make up days (and salary) during a teacher strike have a consistently lower average number of strikes than the three states in which teachers usually make up all or most days (and salary) lost.

Among the states with collective bargaining laws, the two states (Iowa and Wisconsin) with the lowest number of strikes possess all three factors, while two of the three states with the highest number of strikes (Pennsylvania, and Michigan) possess none of the three factors listed.

Table 5. Public Policy And Frequency of Teacher Strikes

State	Strike Penalties Consistently Applied	Mandatory Strike Alternative: Binding Arbitration	Recovery of Most Strike Days' Pay	Ave. Annual # of Strikes 1975/6--1981/2
Minnesota (1981-82)*	No	No	NA	35
Pennsylvania	No	No	Yes	30.3
Michigan	No	No	Yes	28.0
Illinois	No	No	Yes	27.1
Ohio	No	No	No	18.1
California	No	No	No	10.4
New York	Yes	No	No	6.1 (Mean) 4.0 (Median)
Indiana	Yes	No	No	3.0
Minnesota (1975-80)*	NA	Yes*	NA	2.2
Oregon	Yes***	No**	No	1.1
Wisconsin	Yes	Yes	NA	0.7
Iowa	Yes	Yes	No	0.0
Texas	Yes	No	No	0.0

*During the five-year period (1975-80), binding arbitration was mandatory if requested by the school board, and teachers had the right to strike only if their request for binding arbitration was rejected by the school board. A statute amendment made binding arbitration completely voluntary for both parties in 1981-82 and gave teachers the right to strike at the end of an impasse period. During both time periods (1975-81), no illegal strike occurred.

**Thirty-day "cooling off" period is required following unsuccessful fact-finding.

NA = Information not available or not applicable.

*** Penalties are consistently applied to strikes prohibited by law.

mi 7227a

Illinois H.B. 1345 and S.B. 646:

A comparison of the recent Illinois collective bargaining bills with the nine collective bargaining laws reveals three important differences with respect to strike feature. First, the right to strike can be exercised much more quickly in H.B. 1345 (30 days) and S.B. 646 (15 days) than even for those states which have a limited right to strike -- Minnesota (115 days), Oregon (90 days), Pennsylvania (about 75 days). Second, neither H.B. 1345 nor S.B. 646 specify any penalty for prohibited strikes--strikes occurring before the conclusion of the entire impasse process. Third, the three states with a limited right to strike provide for injunctive relief if the "welfare of the public is threatened." H.B. 1345 and S.B. 646 do not contain this provision, though S.B. 646 does come close.

LABOR - MANAGEMENT BARGAINING ATTITUDES IN ILLINOIS

During May and August of 1982, Illinois State Board staff met with a number of practitioners who represent both labor and management at the bargaining table. Also present were neutrals from government and arbitration associations. Held in Chicago and Springfield, the purpose of these meetings was to obtain experienced viewpoints concerning the teacher/board bargaining process in Illinois public schools.

Following a state staff briefing, the practitioners expressed their preferences concerning various bargaining statute provisions.

Areas of Disagreement:

1. Management representatives were direct in their call for a narrow scope of issues that would be considered as mandatory subjects for collective bargaining. They suggested that any statute be specific about what could be bargained giving consideration for those school matters that they considered to be nondelegable.

   Representatives sympathetic to the cause of teacher organizations responded that the scope of teacher/board bargaining is a settled issue as evidenced by the broad range of subjects already bargained throughout the state.

2. Management representatives expressed the view that current state policy requiring school districts to amend calendars in order to meet a mandatory minimum number of school calendar days places local school boards at a bargaining disadvantage.

   They suggested that school districts should be exempt from state penalties for school days lost due to strikes.

3. Some management representatives expressed the view that penalties should be placed upon teachers as a deterrent to future strikes (e.g. financial loss, forfeit of dues deduction). Teachers responded that management must also share the responsibility for strikes.

4. One management representative expressed the view that "as in the private sector," entities with low annual budgets (under one million dollars) should not be covered by a bargaining statute. A teacher representative present responded that all teachers should have the right to bargain regardless of unit size and school district budget.

Areas of Agreement:

During the meetings in both Chicago and Springfield, there was agreement among a number of labor and management representatives present concerning the following collective bargaining issues.

1. The need to improve the recently enacted P.A. 82-107 in order to permit the issue of recognition to be resolved in an orderly manner. While the statute does provide for representative elections and unit determination, there is an absence of statutory reference regarding the right of the employee or the duty of the employer to bargain.

2. Both statewide teacher organization representatives and a number of management people expressed strong opposition to mandatory interest arbitration as a means of resolving bargaining impasse. However, voluntary interest arbitration was viewed as an acceptable alternative.

3. A number of management representatives expressed a need to have a more consistent, uniform administration of P.A. 82-107 (e.g. Concerns were expressed regarding inconsistent policy and legal interpretations in such areas as unit determination and petition verification areas.).

   One of the statewide teacher organization representatives indicated a preference for a new, comprehensive statute to be enacted as opposed to any effort to amend the existing statute.

   Representatives from both statewide teacher groups expressed a willingness to work together to ensure continued progress towards achieving a collective bargaining statute in Illinois.

STAFF OBSERVATIONS

As a consequence of its study on teacher/board bargaining in Illinois and nine other states, State Board staff can make the following observations regarding the status of teacher/board bargaining in relation to already established State Board of Education collective bargaining legislative principles.

Generally, the principles adopted by the State Board of Education in 1979 are still viable when applied to current statewide practices and attitudes of practitioners.

A comparison of the five legislative principles with a recently enacted state statute (P.A. 82-107) and/or the expressed preferences of the various labor-management practitioners reveals little disagreement.

Only in the instance of State Board of Education legislative principle #4, which deals with the adjudication of disputes, have some management representatives differed slightly by suggesting that a new administrative agency would not be necessary to provide such services.

Moreover, bills S.B. 646, which was supported by the IEA in 1980, and H.B. 1345, supported by the IFT in 1982, are also in harmony with State Board of Education legislative principles.

State Board staff have detected a clear-cut expression of need in Illinois for additional statutory guidance in the area of teacher/board collective bargaining. The question is not whether or not Illinois needs additional legislation to normalize teacher/board bargaining in public schools, but rather whether the Illinois General Assembly should continue the process of enacting amendments to specific bargaining area sections of The School Code of Illinois or take a more comprehensive approach by incorporating existing statutory provisions into a bargaining statute that would also address such issues as the duty to bargain, coverage, scope of bargaining, administration, impasse, and strike.

Staff have also observed that while the labor/management practitioners can occasionally agree on some of the basic statutory requirements for teacher/board collective bargaining (e.g., opposition to mandatory interest arbitration), vested interests may continue to prompt disagreement on such issues as strike, scope of bargaining, unit determination, etc. This organizational self-interest syndrome is often the underlying cause of bargaining impasse and subsequent strikes in Illinois school districts.

So, while it can be argued that a State statute be enacted that provides the legal framework necessary to help alleviate a number of the special problems of labor and management, it is clear that a statute will not solve all the problems. In this connection, staff members agree with the recent Oregon State Board of Education task force report on strike alternatives which suggested that "Collective bargaining is less a matter of law or legal procedure than it is a matter of good faith and cooperation by those involved in the process."

APPENDIX A

PRIMARY FEATURES OF SELECTED STATES' TEACHER COLLECTIVE BARGAINING LAWS

Form A. Public Employee Relations Board/State Department of Education

Respondent Name _____ Title _____

Agency Name & Address _____

City & State _____ Telephone # _____

1. Does your state have a collective bargaining (CB) law which covers public school teachers (K-12)?

   Yes _____ No _____ (If No, do not complete interview form)

2. What is the name/number of this CB law? _____

3. When was the law enacted? _____
   Amendment Dates: 1st _____
   2nd _____
   3rd _____
   4th _____

4. What groups of public employees are covered by the CB law? (Check all that apply)

   ____ Public elem./sec. teachers ____ & nonsuper. Instr. staff
   ____ Nonpublic elem./sec. teachers ____ & nonsuper. Instr. staff
   ____ Public community college teachers ____ & nonsuper. Instr. staff
   ____ Nonpublic community college teachers ____ & nonsuper. Instr. staff
   ____ Public college/university teachers ____ & nonsuper. Instr. staff
   ____ Nonpublic college/university teachers ____ & nonsuper. Instr. staff
   ____ Other public employees (specify) _____
   ____ All public employees
   ____ Other (specify) _____

5A. What provision does the law make for the CB process between local boards of education and teacher organizations?

   _____ A. CB is permissible under certain conditions(Explain) _____
   _____ B. CB is permissible unconditionally
   _____ C. CB is mandated under certain conditions (Explain) _____
   _____ D. CB is unconditionally mandated
   _____ E. Other (Explain) _____

5B. Are teachers guaranteed the right to organize and choose an exclusive representative?

   Yes _____ No _____ (If no, explain) _____

   _____

6. How does the CB law deal with an impasse reached during the negotiation of a contract? (describe in detail mediation, fact-finding, interest arbitration, etc.)

7. How does the CB law deal with strikes or work stoppages?

7A. Strikes are: illegal ___; legal under certain conditions ___; legal ___; legality not specified ___; (describe in detail)

7B. Are there penalties for a teacher strike Yes _____ No _____

7C. If Yes, what are the penalties how are they determined, administered, and how frequently have they been applied?

8. How is the scope of bargaining defined or treated in the CB law? (Check all that apply)

_____ A. Not discussed
_____ B. Discussed but left up to local CB participants
_____ C. Unlimited (hours, wages and terms of employment)
_____ D. Salary
_____ E. Fringe benefits
_____ F. Selected conditions of employment (identify) _____
_____ G. Any working condition
_____ H. Other _____
_____

9. Is there a Public Employee Relations Board?

_____Yes _____No; If Yes,

Selection Procedure _____

Length of Service _____

Annual Salaries _____

Members _____

Specified in law? _____

Kind and Structure of PERB _____

Powers and Duties _____

FTE (% basis) _____

10. What provision does the CB law make for the resolution of grievances?

_____ A. Not mentioned in CB law
_____ B. Law mentions but provides no procedure
_____ C. Law describes resolution procedures
_____ D. Law specifies binding "rights arbitration"

Describe law's provisions: _____

_____

_____

_____

11. What provision does the CB law make for union dues deduction?

_____ A. Does not mention
_____ B. Delegated to individual bargaining parties
_____ C. Teacher must authorize
_____ D. Automatic unless teacher objects
_____ E. Mandatory for all teachers (fair share or agency shop)
_____ F. Other (Explain) _____

12. Does the CB law specify unfair labor practices? Yes ____ No ____
If yes, which are the most important? (1) _____

(2) _____

(3) _____

Which three are most frequently violated? (1) _____

(2) _____

(3) _____

13. What are the main strengths of the current CB law in your judgment?

_____

_____

_____

_____

_____

_____

_____

14. What are the weaknesses of the current CB law in your judgment?

_____

_____

_____

_____

_____

_____

_____

15. What changes could be made in the current CB law for improvement?

_____

_____

_____

_____

16. What are the unique features of your CB law? (Are these desirable?)

17. What could positively affect the bargaining process?

Additional Notes:

Interviewer

MMJ:1456h

APPENDIX B

JUDGEMENTS AND OPINIONS OF STATE TEACHER ORGANIZATIONS AND SCHOOL BOARD ASSOCIATIONS REGARDING THEIR STATE TEACHER COLLECTIVE BARGAINING LAW

Form B. State School Board Association/State Teacher Organization

Respondent Name _____ Title _____

Agency Name & Address _____

City & State _____ Telephone # _____

1. What are the main strengths of the current CB law in your judgment?

_____

_____

_____

_____

_____

2. What are the weaknesses of the current CB law in your judgment?

_____

_____

_____

_____

_____

3. What changes could be made in the current CB law for improvement?

_____

_____

_____

_____

_____

4. What are the unique features of your CB law? (Are these desirable?)

5. What could positively affect the bargaining process?

Interviewer

MMJ:1455h

APPENDIX C
SURVEY OF COLLECTIVE BARGAINING STATUTES IN SELECTED STATES
LIST OF TELEPHONE INTERVIEWEES

STATE	NAME	TITLE	ORGANIZATION
Oregon	Dan ElTis	Chairperson	PERB
Oregon	Roger Auerbach	President	Ore. Fed of Teachers
Oregon	Ted Romoser	President	Ore. Ed. Assoc.
Oregon	Jerry Martin	Dir. Labor Rel.	Ore. Sch. Bd. Assoc.
Oregon	Bruce Zagar	Attorney	Ore. Sch. Bd. Assoc.
Wisc.	Morris Slavney	Chairperson (1959-1980)	PERB
Wisc.	Ken Cole	Asst. Ex. Dir.	Wisc. Sch. Bd. Assoc.
Wisc.	Connie Salveson	Exec. Dir.	Wisc. Fed. of Teachers
Wisc.	Oliver Berge	Exec. Dir.	Wisc. Assoc. of Sch. Adm.
Wisc.	Donna Ullman	Dir. of C.B.	Wisc. Ed. Assoc. Coun.
Minn.	Peter Obermeyer	Director	Bur. of Med. Serv.
Minn.	Char Lantz	Asst. Exec. Dir.	Minn. Ed. Assoc.
Minn.	Edward Bolstad	Ex. Sec.	Minn. Fed. of Teachers
Minn.	Jim Schmid	Dir. Field Serv.	Minn. Sch. Bd. Assoc.
N.Y.	Ralph Vatalzio	Exec. Dir.	PERB
N.Y.	Erwin Kelly	Dir. Concilation	PERB
N.Y.	Henry Sobota	Ast. Counsel	N.Y. Sch. Bd. Assoc.
Ind.	Donald Russell	Dir. Conciliation	PERB
Ind.	W.J. Peterson	Exec. Dir.	Ind. Sch. Bd. Assoc.
Ind.	Bruce Rogers	Dir. of C.B.	Ind. Ed. Assoc.
Ind.	Robert Thornberry	Exec. Dir.	Ind. Fed. of Teachers
Mich.	George Rickey	Mediator	PERB
Mich.	Harry Bishop	Assoc. Exec, Dir.	Mich. Assoc. of Sch. Bd.
Mic.	Louie Diaz	Negot. Spec.	Mich. Ed. Assoc.
Penn.	Pat Crawford	Exec. Dir.	P.L.R.B.
Penn.	Roger Erskine	Assoc. Exec. Dir.	P.S.E.A.
Penn.	Al Fondy	President	P.F.T.
Penn.	Joseph Oravitz	Exec. Dir.	P.S.B.A.
Iowa	John Beamer	Chairman	P.E.R.B.
Iowa	Dave Grosland	Assoc. Dir.	I.E.A.
Iowa	Ted Davidson	Exec. Dir.	I.A.S.B.
Iowa	Lyle W. Kehm	Exec. Dir.	I.S.S.A.
Calif.	Harry Gluck	Exec. Dir.	P.E.R.B.

ADDITIONAL INTERVIEWEES

Richard Rubin	Director	Midwest Center for Public Sector Labor Relations
Larry Picus	Director	Strike Alternative Survey (NW Reg. Lab.)
Doris Ross		Research and CB Specialist (ECS)
Wayne Wendling	Senior Research Economist	(UpJohn Inst. for Empl. Res.)
Bill Morgan	Assoc. Director	(Center for Human Resource Research, Ohio State Univ.)
James Stern	Director	(Ind. Rel. Inst. Univ. of Wisc.)
Arthur Jones	Superintendent	(Forest Park Sch. District #91)
Margaret Martin	Counselor	(Forest Park Sch. Dist #91)
Richard Wynn	Professor	(Univ. Pittsburg)
Ruth Osser		(Council of State Governments)
Irving Goldaber	Director	(Center for Practice of Conflict Management)
Don Thomas	Superintendent	(Salt Lake City Sch. Dist)

APPENDIX D

Illinois Court Cases

In the absence of a statute regulating public sector collective bargaining in Illinois, teachers and school boards are often required to turn to the courts for guidance in resolving educational policy and contract issues. Consequently, it was proper that our effort should include a search and study of the following court decisions.

Case #1. Citation: People ex rel Fursman v. City of Chicago, 278, Illinois 318. 116 N. E. 158 (1917).

Summary: The Illinois Supreme Court, in 1917 upheld the right of the Chicago Board of Education to prohibit its teachers from joining a union.

Case #2. Citation: Chicago Division of the Illinois Education Association v. Chicago Board of Education of City of Chicago, 76, Illinois Appellate 2d, 456, 222 N. E. 2nd 243 (1966).

Summary: Considered a cornerstone case in Illinois, the court indicated it was without authority to deny the Board of Education the exercise of bargaining with its employees. This case opened the doors for units of local government to negotiate collective bargaining contracts should they decide to do so.

Case #3. Citation: Board of Education of Community Unit School District #2 v. Redding, 32, Illinois 2d, 567, 207 N. E. 2d 427 (1965).

Summary: The court granted the school district injunctive relief indicating that "it is, so far as we can ascertain, the universal view that there is no inherent right in municipal employees to strike against their governmental employers whether federal, state, or political subdivision thereof, and that a strike of municipal employees for any purpose is illegal."

The following Illinois court cases supported the Redding decision indicating that public employees do not have the right to strike.

#3a. Citation: Board of Education v. Kankakee Federation of Teachers (1970) 46, Illinois 2d, 439, 264 N. E. 2d 18, cert. denied (1971) 403 U.S. 904, 91, Supreme Court 2203, 29, L. Ed. 2d 679.

#3b. Citation: Allen v. Maurer (1972) 6, Illinois Appellate 3d, 633, 286 N. E. 2d, 135.

Case #4. Citation: *IEA of Local Community High School District #218 v. Board of Education of School District #218 (Cook County) 62, Illinois 2d 127, 340 N. E. 2d - 7 (1975).

Summary: The Illinois Supreme Court indicated that teacher/board contracts cannot supercede state statute and thus certain board functions are non-delegable.

*See also Wesclin Education Association et al v. Board of Education, No. 74-62, Appellate, 5th District (7-1-75).

Case #5. Citation: Cronin v. Lindberg, 360 N. E., 2d 360 (Illinois, 1977).

Summary: The court rejected the Chicago Board of Education's assertion that strike days were an Act of God and therefore the district should suffer no loss of state aid. The court further indicated that "to hold a labor strike as an Act of God would be an unwarranted expansion of this state's settled definition of Act of God to one including human conduct."

Case #6. Citation: Board of Education of South Stickney (Cook County, District 111) v. Johnson (1974) Illinois Appellate.

Summary: The court indicated that a grievance is arbitrable only if it is a minor dispute contemplated by the express terms of the contract as opposed to a matter governed by Illinois statute.

Case #7. Citation: Johnson v. Doglio, 75-345, Illinois Appellate 3d (11-12-76).

Summary: In attempting to intervene in a labor dispute between the Kankakee School Board and teachers, the Director of the Illinois Department of Labor appealed an order of the Kankakee Circuit Court which held that the Labor Controversies Act does not apply in the public sector. The case became moot when the dispute between the board and teachers was resolved and was subsequently dismissed by the court.

Case #8. Citation: Miller v. School District #189, East St. Louis, 26, Illinois Appellate 3d, 172 (3-4-75).

Summary: The court ruled that a contract between the teachers union and school board is properly interpreted to require that minimum number of attendance days of 176 be increased to reflect unused institute days.

Case #9. Citation: Board of Education of Chicago v. Chicago Teachers Union, 26, Illinois Appellate, 3d, 806 (2-25-75).

Summary: The court ruled that the Board of Education may not enter into an enforceable multi-year contract with its employees without first making an appropriation for such liability.

Case #10. Citation: Yesinawski v. Board of Education of Byron School District, 28, Illinois Appellate, 3d, 119 (5-9-75).

Summary: The court ruled that a tenured teacher may be dismissed only if the school board, when the changes are remedial, first supplies the teacher with a written warning. Furthermore, there must be a showing that the board (1) not only makes a determination regarding the remediability of causes, but also (2) express its reasons for such determination in such fashion that the reviewing court can pass judgment on them.

(Since the courts of this state have clerly ruled that the problems of discipline and class control are remedial grounds for dismissal, the trial court order and decision of the board to dismiss the teacher were reversed.)

Case #11. Citation: Federation of Alton Classroom Teachers, Local #2285 v. Alton Education Association, No. 76-CH-60.

Summary: The Madison County Circuit Court uled that when an agreement is to be ratified by the members, the union may prescribe its own ratification procedure, including the exclusion of non-members.

(A similar case in the Knox County Circuit Court ruled to the contrary. See Galesburg Federation of Teachers v. Galesburg Education Association, No. 75-CH-17.)

Case #12. Citation: Moliter v. Kaneland Community School District #302, 168, N.E. (2) 189 (1959).

Summary: The Illinois Supreme Court ruled that boards of education, as agents of the state, can be sued in actions to recover damages as a result of negligence on the part of their employees. In this decision,professional employees were ruled to be agents of the boards of education in Illinois.

This landmark case in Illinois established a precedent in upsetting by judicial decision the traditional theory of sovereign immunity, or "the king can do no wrong."

Case #13. Citation: Board of Education, City of Peoria School District v. Peoria Education Association, 330, N.E. 2d, 235 (Illinois Appellate, 1975).

Summary: The courts are divided where it must be decided whether or not it is appropriate to use injunctive relief in terminating strikes. In this particular case an Illinois Appellate Court held that a school board should not be granted injunctive relief since the dispute that gave rise to the strike had been settled.

(The Wisconsin Supreme Court held in one case, see Joint School District No. 1, City of Wisconsin Rapids, v. Wisconsin Rapids Education Association, 234, N.W. 2d 289 (Wis., 1975), that an injunction may be issued against a strike where irreparable harm is threatened or is imminent. Irreparable harm was defined as (1) inability of the board to operate schools, (2) inability of the students to obtain the benefits of a tax supported education, and (3) inability of parents to educate their children.)

Case #14. Citation: Allen v. Maurer, 6 Illinois App. 3d, 633, 286 N. E. 2d 135 (July, 1972).

Summary: In August of 1971, the teachers of the Decatur, Illinois, school district went on strike. In September, a group of citizens in the Decatur community, including Mr. E. Allen, a local property owner, filed in the Circuit Court of Macon County seeking an injunction against the NEA/IEA association and member teachers employed by the Decatur school board. The circuit court held that the Decatur teachers should desist from their work stoppage activities and return to work. Further litigation followed, until on October 8, 1971, the Illinois Appellate Court denied the teachers' appeal and further indicated:

1. Taxpayer parents cannot sue to enjoin a teachers strike in order to secure the performance of that constitutional duty. The court held that the authority to seek an injunction rests in the state and its official representative, the Board of Education, the members of which are elected by the people.

2. The court denied the defendants' assertion that there was no contractual relationship between them and the Board of Education. The Court held that the Illinois tenure act creates an automatic contract between the school board and the tenured teacher that is continuous.

3. Denied the teachers' claim that the Board of Education had failed to show that a strike was in progress. "A rose by any name is still a rose."

4. Relied upon the Illinois Supreme Court decision in the "Redding" decision and upheld the use of injunction against the Decatur teachers noting that the Illinois constitution imposes a duty upon the state to provide a free and efficient public school system.

One important side affect to this case was that on September 24, 1971, the Macon County Circuit Court rejected a motion by the Illinois Superintendent of Public Instruction who filed a case which would have awarded him authority to intervene into the Decatur strike and mandate a final settlement.

Case #15. Citation: Donahue v. Board of Education, 413, Illinois 422, 425, 109, N. E. 2d-737-789 (1953).

Summary: The Illinois Supreme Court clarified the purpose of the Illinois Teacher Tenure Law, indicating that prior to 1941 Illinois teachers served at the pleasure of the boards of education. Upon enactment, the court noted, "the purpose of the tenure act was to improve Illinois school system by assuring teachers of experience and ability continuous service and a rehiring based upon merit, rather than failure to rehire upon reasons that are political, partisan or capricious."

Case #16. Citation: The City of Pana, Appellant, Judge Harold Crowe, et al. Appellees 27, Ill. 2nd 547, No. 46208 Illinois Supreme Court, May 20, 1974, Rehearing Denied September 26, 1974.

Summary: The Circuit Court, Christian County, Daniel H. Dailey, issued permanent injunction restraining strike by city employees engaged in operation of water, sewer, and police departments, and union and its officers and members appealed. The Appellate Court, 13 Ill. App. 3rd 90, 299, N. E. and 770 reversed and granted a certificate of importance. The Supreme Court, Schaefer, J., held that the Anti Injunctions Act did not prohibit issuance of an injunction against public employees who were engaged in an unlawful strike. Appellate Court reversed, circuit court affirmed.

Case #17. Citation: Board of Education of Community Unit School District No. 2 (Bond County) Appellant v. Doris Redding et al. Appellees. No. 39032. Illinois Supreme Court May 20, 1965.

Summary: Action by Board of Education of school district to enjoin custodial employees from conducting strike against board and from picketing schools in support of strike. The Circuit Court, Bond County, denied relief and plaintiff appealed. The Supreme Court, Daily, J., held that strike of custodial employees was illegal and picketing should have been enjoined.

STATE BOARD OF EDUCATION
COLLECTIVE BARGAINING PRINCIPLES

1) That a legal Illinois framework establish the right of employees to achieve recognition and bargain with local boards of education, and

2) That both parties to any educational labor dispute be required to participate in mediation prior to contract expiration and be afforded maximum opportunity to choose to use any impasse breaking procedures so long as the final agreement is determined by the parties themselves, and

3) That the scope of negotiations be limited to hours, wages and conditions of employment but with assurances that boards of education retain management policy prerogatives.

4) That the statute provide a mechanism for defining a ruling on unit determination issues, adjudicating disputes over employee representation and for ruling on unfair labor practices either by employees or employers.

5) That the law encourage mediation and fact-finding of contract disputes, but that decision making remain with the board of education and authorized employee groups; and further, that strikes by teachers and other employees be legal only after state or federal mediation and fact-finding has been provided and failed.

REVIEW OF STATE STATUTES CONCERNING STRIKES

Permitted After Certain Conditions Have Been Met		Prohibited by Statute	
Name of State	No. of Strikes 1981-82	Name of State	No. of Strikes 1981-82
Oregon	0	Indiana	0
Minnesota	35	Michigan	13
Wisconsin	0	New York	3
Pennsylvania	25	Iowa	0
California	1		

EMPLOYEES COVERED BY STATUTES

Most Public Employees	Education Employees Only
Oregon	Indiana
Minnesota	
Wisconsin	
Michigan	
New York	
Iowa	
California	
Pennsylvania	

APPENDIX G

SCOPE OF BARGAINING

	Broad Scope	Limited Scope
1. Oregon	X	
2. Minnesota	X	
3. Wisconsin	X no bargaining of class size	
4. Pennsylvania	X	
5. Indiana		X salary, wages, hours, benefits, and law provides topics for mandatory discussion
6. Michigan	X wages, hours, conditions and terms defined by ERC and courts	
7. New York	X salary, wages, hours, and other terms and conditions as defined by courts & PERB	
8. Iowa		X as set by statute
9. California	X extensive list set forth in statute	

INVITED TO ATTEND MAY 5, 1982, MEETING: APPENDIX H

Mr. Leo J. Athas
Franke & Miller

Dr. Ronald Booth
IASB

Mr. Guy Brunetti
Chicago Board of Education

Mr. Robert Healey
Chicago Teachers Union

Honorable Bruce Holcomb
DeWitt/McLean Counties

Dr. George E. Larney
Labor Arbitrator/Mediator

Mr. Fred Lifton
Robbins, Schwarz, Nicholas
Lifton & Taylor

Mr. Bruce Mackey
Klein, Thorpe & Jenkins

Mr. Reg Weaver
Illinois Education Association

Dr. Wesley Wildman
Vedder, Price, Kaufmann
& Kammholz

Ms. Margaret Blackshere
Illinois Federation of Teachers

Mr. David Peterson
Illinois Federation of Teachers

Dr. Peter Feuille
University of Illinois

Mr. Richard Laner
Dorfman, Cohen, Laner
& Muchin, Ltd.

Mr. Robert Deffenbaugh, Attorney
Illinois Education Association

Mr. David Kula
Scariano, Kula & Associates, P.C.

ISBE Staff:
Leo Hennessy
Sue Bentz
Julia Dempsey
Sally Pancrazio
David Thompson

0. 71

INVITED TO ATTEND AUGUST 10, 1982, MEETING:

APPENDIX I

TEACHER/BOARD COLLECTIVE BARGAINING - AD HOC COMMITTEE

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APPENDIX J
STATUS AND PERCEIVED FUNCTIONING OF COLLECTIVE BARGAINING LAWS
IN 9 SELECTED STATES

New York

Statute

The Public Employees' Fair Employment Act (The Taylor Law) was passed in 1967 and amended in the following years: 1970, 1971, 1972, 1973, 1974, 1975, 1977, 1978, 1979 and 1981.

Employees Covered

The law covers most public employees, including university teachers, both state and local. Among those excluded are "persons who may reasonably be designated from time to time as managerial or confidential." Legal criteria for designation as managerial include formulating policy and/or involvement in employee relations in a role requiring the exercise of independent judgment. An appropriate negotiating unit "shall correspond to community of interest among the employees," i.e., principals' units, teachers' units, or bus drivers' units.

Administration of Statute

The New York Public Employment Relations Board (PERB) consists of three members appointed by the governor for staggered six-year terms. No more than two members shall be of the same political party. Only the chairperson is full-time.

Among its powers and functions are to administer the Taylor Law, resolve representation disputes, provide conciliation services, adjudicate unfair practice charges, designate management/confidential employees, collect data, determine culpability of employee organization for striking, and order suspension of deduction for dues and agency shop fees.

Collective Bargaining Rights/Recognition

"Public employees shall have the right to form, join and participate in, or to refrain from forming, joining or participating in, any employee organization of their own choosing. Public employees shall have the right to be represented by employee organizations to negotiate collectively with their public employers..."

Therefore, when an employee organization has been certified or recognized, the public employer is required to negotiate collectively with it.

The law provides for resolving disputes over representation status by setting forth standards for defining the appropriate negotiating unit and for ascertaining the employees' choice of organization as their representative. The employer is authorized to voluntarily recognize employee organizations, but if a dispute arises the PERB shall ascertain and certify the choice of the employees on the basis of dues deduction authorization, other evidences, or by conducting an election.

Dues Deduction

Dues deduction for a certified or recognized employee organization is required by law. The agency shop fee is a mandatory subject for bargaining. However, such a fee can only be collected if the employee organization has refund procedures to an employee wanting a refund of that part of the fee, "which represents the employee's pro rata share of expenditures by the organizations in aid of activities or causes of a political or ideological nature only incidentially related to terms and conditions of employment." Unresolved matters are the procedures for refund, how to determine how much should be refunded and who has jurisdiction over enforcement.

Scope of Collective Bargaining

The mandatory topics for bargaining are "salaries, wages, hours, agency shop fees and other terms and conditions of employment." Many controversies over what matters constitute "other terms and conditions of employment" have ultimately been decided by the courts. Over the years, what is and is not a mandatory subject of negotiation has been pretty well defined. A bill signed by the governor this summer requires the extending in force of all provisions of an expired contract, not just those provisions that are subjects for mandatory bargaining.

Impasse Procedures

Public employers are empowered to develop impasse procedures with educational employee organizations including an agreement to submit unresolved issues to binding arbitration. In the absence or failure of such procedures, either party may request the PERB to render assistance or the PERB may render assistance on its own motion. The assistance includes mediation, then fact-finding.

Grievance Procedures

Public employers are required to negotiate collectively with a duly certified or recognized employee organization "in the determination of, and administration of grievances arising under the terms and conditions of employment" as determined in the negotiated written agreement with the employee organization. The law encourages parties to have arbitration for settling grievances.

Management Rights

There is no section in the Taylor Law specifically devoted to management rights.

Strikes/Penalties

In order to be certified or recognized, a public employee organization must affirm that it does not intend to be involved in strikes. If it determines that a public employee organization caused, instigated, encouraged or condoned a strike, PERB may order the suspension of dues deductions and agency shop fees for a specific period of time, or for an indefinite period of time.

The employer must withhold two days' pay from the striker for each day he/she was on strike. In any appeal, the law puts the burden of proof on the individual that he/she was, in fact, not on strike. In addition, a public educational employee who goes on strike "may be subject to removal or other disciplinary action." Further, the employer is obligated to apply for a court order enjoining strikes by public employees. New York has had relatively few (3-5 annually) teacher strikes since 1975. The penalties for striking are normally enforced. The chairperson of the PERB has taken the position that it should not have a role in penalties for strikes as it is inappropriate for a dispute-resolving agency.

In 1978, an amendment eliminated for striking employees the one year's probation period they were required to serve upon return to work. There are school board people who want to see the law changed so that teachers would again be subject to loss of tenure status for a year.

Unfair Labor Practices

It is an unfair labor practice for either an employer or a public employee organization (1) to interfere with, restrain or coerce public employees in the exercise of their rights; or (2) to refuse to negotiate in good faith. Two other improper employer practices are (1) to dominate or interfere with the formation or running of an employee organization; and (2) to discriminate against any employee for the purpose of encouraging or discouraging membership in or participation in the activities of any employee organization.

Unique Feature

What distinguishes the New York law most from the law in other states is the array of clear-cut strike penalties.

Individual Comments

Strengths of Law "Relative penalties are humane. Teachers don't lose jobs. The penalty of two days' loss of pay for every day on strike is excellent. It is easy to administer, can be imposed quickly and the burden of proof is on the employee." (management representative)

"It is a good idea that law does not try to define 'terms and conditions of employment' the position take by the NLRB." (management representative)

"Our association does not seek major changes in the law." (management representative)

"It is good that the PERB handles all public employee relations, not just teachers." (management representative)

Weaknesses of Law

"It is not appropriate for the PERB to enforce dues check-off penalties as it is a neutral dispute-resolving agency." (PERB exec. director)

"The law is too broad in allowing administrators into a teacher unit or an administrator's unit." (management representative)

Recommended Changes in Law (PERB exec. director)

"The law should be changed to require agency shop if a union can demonstrate at least 75 percent membership; then an agency shop fee of 80 or 90 percent for non-members should be automatic; then we can get rid of the part of the law on refund procedures, which is difficult to enforce."

"The state should have the power to impose binding arbitration in the few cases where it is critical to avoid a strike. Such a power would be used sparingly."

Michigan

Statute

The Public Employment Relations Act was enacted in 1965 and amended in 1973, 1976, 1977 and 1978.

Employees Covered

The law covers most public employees, including higher education personnel, except those in the state classified civil service. By regulation, separate units are required for teachers and other nonsupervisory professionals, principals and other middle management positions, and support staff (e.g. bus drivers). Superintendents, other executives and confidential employees may not organize.

Administration of Statute

The Michigan Employment Relations Commission (MERC) was established in 1939 by the Labor Mediation Act to handle the private sector and with the passage of the Public Employment Relations Act in 1965 was given jurisdiction in the public sector. The Commission consists of three part-time members appointed by the governor, who designates one as chairman. No more than two members may be of one political party.

Among the functions of the Commission are to hold hearings on disputes on representation, in the absence of agreement at the local level, to remediate charges of unfair labor practices, and to provide mediation and fact-finding services.

Over the years, the Commission and its administrative law judges have developed a body of case law to guide its decisions on complaints of unfair practices and on disputes over the scope of mandatory bargaining. The Commission has tended to rely on National Labor Relations Board precedents.

Collective Bargaining Rights/Recognition

According to law, it is lawful for public employees "to form, join or assist in labor organizations...and to negotiate or bargain collectively with their public employers through representatives of their own free choice." (The MERC decides in each case the appropriate unit.)

"Representatives designated or selected for purposes of collective bargaining by the majority of the public employees in a unit appropriate for such a purpose shall be the exclusive representative...and shall be so recognized by the public employer."

However, if a petition is presented to the Commission, then the Commission is required to investigate. If there is a question of representation, a secret ballot election is held and the Commission certifies that organization who receives a majority of votes cast as the exclusive representative.

It is unlawful for either party to refuse to bargain collectively. Collective bargaining is defined as "the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith" on matters within the scope of bargaining.

Dues Deduction

A negotiable item, according to the law, is that all employees in the bargaining unit share "fairly in the financial support of the exclusive bargaining representative by paying to it a service fee which may be equivalent to the amount of dues uniformly required of members."

Scope of Collective Bargaining

A public employer has the duty to bargain "in good faith with respect to wages, hours and other terms and conditions of employment". Terms and conditions of employment have been defined over the years in administrative decisions by the Commission and in court cases. For example, in 1976, the State Supreme Court ruled that grievance and other disciplinary procedures are "other terms or conditions of employment" that are mandatory subjects of collective bargaining under the Michigan Public Employment Relations Act.

Impasse Procedures

The Public Employment Relations Act authorizes the commission to appoint a mediator if a dispute remains unresolved at least 30 days before the expiration of a collective bargaining agreement and a request for mediation is not received. Michigan law also authorizes fact-finding by the Commission, either on the request of the parties or on its own initiative. "The findings shall not be binding on the parties, but shall be made public." The law makes no provision for arbitration although by court decision parties may agree to binding arbitration. Mediation has been more widely used, acceptable, and successful than fact-finding. Organized teachers have supported legislation mandating binding interest arbitration, while the organized school boards have opposed it.

Grievance Procedures

Upon the petition of an employee group or an employer, the Employment Relations Commission shall mediate the grievances set forth in the petition. The law also states any individual employee at any time may present grievances to his employer and have the grievances adjusted without intervention of the bargaining representative.

Management Rights

None are stated in the Michigan Public Employment Act.

Strikes/Penalties

Public employees are forbidden to strike. An employee who goes on strike is subject to having his employment terminated or other discipline imposed by the local district. However, an employee is entitled to request of the officer or body having power to remove or discipline such employee, "proceedings for the determination of whether the provisions of this act have been violated..." If found in violation and employment terminated or other discipline imposed, the employee has the right of circuit court review "for determination whether such decision is supported by competent, material and substantial evidence on the whole record." There are no state-determined or administered penalties and no penalties on the exclusive bargaining unit.

In recent years, Michigan has had a relatively high number of teacher strikes -- second only to Pennsylvania. In the view of many, the stated penalties are not a deterrent to strikes as they are usually not implemented. A major reason is that the appeal procedures are lengthy and costly. Also, there is usually not a loss of state aid or loss of pay to teachers; the calendar is extended in the spring to make up for lost days due to teacher strikes.

Unfair Labor Practices

The act identifies four types of unlawful practices for a public employer or an officer or agent of a public employer and three types for a labor organization or its agents. Administrative law judges working for the Commission hear complaints and provide to the commission a proposed report, setting forth findings of fact, conclusions of law and the reasons for their recommendations.

Unique Features

The Employment Relations Commission has jurisdiction over the private as well as the public sector. Appeal procedures for those penalized for strikes by local districts are lengthy and costly. Consequently, penalties are usually not being implemented.

Individual Comments

Strengths of Law

"Michigan law has been able to equalize power." (teacher representative)

"Mediation process has worked well. It definitely has been successful in getting agreements." (teacher representative)

"Good that law contains general language. The union doesn't want a list in the law of mandatory and optional subjects for bargaining." (teacher representative)

"With state involvement, there is interjected considerable expertise and objectivity into a local dispute." (MERC staff member)

Weaknesses of Law

"Too many matters have been put into the scope of bargaining as a result of court decisions." (management representative)

"There are no incentives for teachers not to go on strike." (management representative)

"There are no economic deprivations on either side for not coming to an agreement." (MERC staff member)

Recommended Changes

"There should be enforceable penalties." (management representative)

"A mandatory standard state school calendar might be considered." (management representative)

"Teachers should not have two swings at the ball. Job security shouldn't be bargainable or the tenure act should be repealed. Teacher tenure act provides an appeal for discharge as does the grievance procedure." (management representative)

"There should be a right to strike with no requirement to give advance and written notice of intent to strike." (teacher representative)

"There should be some economic pressures on both sides to settle." (MERC staff member)

Indiana

Statute

The public school bargaining bill was passed in 1973 and amended in 1974 and 1978.

Employees Covered

The law covers full-time certified persons employed by school corporations (districts). Excluded are supervisors, confidential employees, employees performing security work and noncertified workers. Despite definition in the law of supervisor, there has been disagreement as to whether certain positions should or should not be in the school employee organization, most notably department chairmen. Evaluation of teachers has become a key criteria to determine who is a supervisor, but there is disagreement over what constitutes evaluation of teachers.

Administration of Statute

The Indiana Education Employee Relations Board (EERB) consists of three members appointed by the Governor, no more than two of the same party. Only the chairman is full-time. Functions include handling determination of exclusive bargaining representative when parties locally can not agree, handling complaints by either school employee or employer of unfair practices and providing mediation and fact-finding services to try to resolve impasses. The Board spent about $750,000 in FY 1982 (July 1, 1981-June 30, 1982). For the following two fiscal years, its spending is projected to remain about the same or decline due to a reduction-in-force. In June, 1981, there were 21 full-time employees (including the chairman), the two part-time board members, and three divisions -- Research and Administrative Operations; Conciliation, Unit Determination and Representation; and Unfair Labor Practice. By the fall of 1982, there were 15 full-time employees and two divisions -- unfair labor practice functions and the conciliation functions were merged under one division handling all field activities.

Collective Bargaining Rights/Recognition

According to the Indiana law, "school employees shall have the right to form, join or assist employee organizations, to participate in collective bargaining with school employers through representatives of their own choosing..." The law makes provisions for the parties at the local level to agree on an appropriate unit. If agreement is not reached locally, the EERB is to determine the proper unit using such criteria as "the existence of a community of interest among school employees."

The law also sets forth the procedures by which a school employer may recognize an exclusive representative and an alternative procedure by which the EERB certifies a unit as an exclusive representative. The latter procedure involves petitioning to the board, board hearings and an election. Exclusive representation is then granted to the organization which is selected by a majority of all employees eligible to vote in the appropriate unit.

Both the employers and the exclusive representative have a duty to bargain collectively and a refusal to do so is an unfair labor practice. The employer's refusal to discuss with the exclusive representative the subjects listed in the law as required for discussion is also an unfair labor practice.

Dues Deduction

Upon written authorization of an employee, the school employer must deduct dues for members of an organization that is an exclusive representative. By court decision, the agency shop is illegal in Indiana.

Scope of Collective Bargaining

Required subjects of bargaining are salary, wages, hours, and salary and wage-related fringe benefits. Subjects a school employer shall discuss and may bargain collectively with exclusive representative of certified employees are working conditions (other than those listed above as required); curriculum development and revision; textbook selection; teaching methods; selections, assignment or promotion of personnel; student discipline; expulsion or supervision of students; pupil-teacher ratio; and class size or budget appropriations.

Discussion, according to the law, means the mutual obligation of the parties "to provide meaningful input, to exchange points of view." "This obligation shall not, however, require either party to enter into a contract, to agree to a proposal, or to require the making of a concession. A failure to reach an agreement on any matter of discussion shall not require the use of any part of the impasse procedure" set forth in the law.

Teacher organizations have considered the scope of required subjects for bargaining too narrow. Some school board people would prefer there not be a law at all.

Impasse Procedures

The law sets forth timelines for bargaining and for EERB involvement in impasses. These are coordinated with school district budget development timelines. Parties may request mediation and fact-finding from the state. The EERB is authorized to initiate both mediation and fact-finding. Parties may submit at any time to an EERB-appointed arbitrator any issue to final and binding arbitration, if both agree to do so. However, binding arbitration has occurred rarely. Fact-finding has been little used after the first several years of the law. Mediation has been more successful. The EERB has recommended elimination or modifications of the timelines in the law and the actions required at set times. These requirements can be no more than partially implemented, and more flexibility would be desirable. If no agreement is reached on items to be bargained collectively 14 days prior to budget submission date, the parties must continue the status quo and the employer may issue tentative contracts and prepare a budget based upon them.

Grievance Procedures

The law states that a contract may contain a grievance procedure culminating in final and binding arbitration of unresolved grievances. Law also states that neither the obligation to bargain collectively nor to discuss any matter shall prevent any school employee from petitioning for a redress of his grievances either individually or through the exclusive representative.

Management Rights

"School employers shall have the responsibility and authority to manage and direct in behalf of the public the operations and activities of the school corporation to the full extent authorized by law." Seven specific rights are listed.

Strikes/Penalties

Stikes are unlawful in Indiana. There have been relatively few teacher strikes in Indiana. "Where any exclusive representative engages in a strike, or aids or abets therein, it shall lose its dues deduction privilege for a period of one year." However, it is necessary for a school corporation to obtain a board or court judgment that a strike, in fact, has occurred for the penalty to be implemented, and the corporations haven't always responded to a strike in this manner. Not seeking such a judgment may be part of settlement between the parties. School districts are authorized to go to court "for redress of such unlawful act." The law also states that a school employee is to lose a day's pay when on strike. In addition, according to the law, "no regulation, rule or law with respect to the minimum length of a school year shall be applicable or shall require make-up days in any situation where schools in a school corporation are closed as a result of a school employee strike."

Unfair Labor Practices

Law lists six unfair practices for a school employer (including refusal to bargain collectively or discuss with an exclusive representative) and four for a school employee organization. Most complaints to the EERB come from teacher's side and include claims that a subject is within scope of mandated bargaining, and charges of refusal to bargain in good faith and of failure to discuss.

Unique Features

What distinguishes the Indiana law most from the law in other states is the limited scope of mandatory bargaining accompanied with a list of matters mandated for discussion. It also forbids requiring changes in the School Calendar, i.e., make-up days as a result of strikes.

Individual Comments

Strengths of Law

"It is good that only one board member is full-time. If the two who are part-time were full-time, they wouldn't have enough to do unless they got involved in field work." (EERB administrator)

"Penalties are fine as they are. You shouldn't get too harsh with teachers. Sometimes school boards are arbitrary and at fault." (EERB administrator)

"It created procedures for hearing teacher complaints of unfair practices." (teacher representative)

"This union opposes any change to compulsory binding arbitration imposed from outside." (teacher representative)

"The law stays away from binding arbitration." (management representative)

"It is good that the scope for mandatory bargaining is not open-ended." (management representative)

"Another good part of law is the section on items for discussion. There should be a good and relevant discussion." (management representative)

Weaknesses of Law

The timetable in the law is unrealistic and impossible to administer." (EERB administrator)

"Fact-finding can be positive in some cases; in general, it doesn't do much good." (EERB administrator)

"No matter how you fashion a laundry list of subjects for mandatory bargaining or discussion, there are still going to be gray areas." (EERB administrator)

"Subjects for bargaining are too narrow." (teacher representative)

Strikes should be legal and there should not be penalties. (teacher representative)

"The law doesn't provide any conclusion to the bargaining process." (another teacher representative)

Recommended Changes

"Shorten or eliminate the bargaining timetables." (EERB administrator)

"Penalties should be made harsher if binding arbitration were added to law as alternative to strike." (EERB administrator)

"There should be more clarity on who is in and who is out of a bargaining unit and particularly on what constitutes evaluating teachers." (teacher representative)

"Teacher strikes should not be legal, but a right to strike is less undesirable than binding arbitration." (management representative)

"There should be a better meshing of the bargaining and budgeting cycle in the law." (management representative)

"Broaden the scope. Everything should be bargainable. There should be a right to strike and/or arbitration." (another teacher representative)

Iowa

Statute

Iowa Public Employment Relations Act was enacted in 1974 and amended in 1978 and 1979.

Employees Covered

The law covers all public elementary and secondary teachers, along with non-teaching professional and support staff; public community college, college and university teachers, along with non-teaching professional and support staff; plus other state, county, municipal and special purpose district public employees.

Right to Organize and Choose Exclusive Representative

Sec. 20.8 provides authority to organize and select a representative.

Administration of Statute

The Public Employment Relations Board (PERB) Board shall consist of three members, chosen by the Governor with two-thirds senate approval. No more than two members shall be from the same political party. Each member shall be appointed for a four-year term. The Chairman shall receive $39,500.00 annually and each member $37,500.00 annually for full-time service.

Collective Bargaining Rights/Recognition

Public employees have the right to organize, form, join, or assist in any organization, to negotiate collectively through an exclusive representative, or to refuse to participate in an employee organization. It is the duty of the employer to recognize and negotiate with the employee organization.

Dues Deduction

Dues deduction is a bargainable issue. If the agreement provides for dues check-off, individual members must give written permission, and may terminate within thirty (30) days notice.

Scope of Collective Bargaining

Both parties are required to meet and negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classification, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training and other matters mutually agreed upon.

Impasse Procedures

Parties must meet to establish impasse procedures. Such agreement shall provide for implementation not later than 120 days prior to certified budget submission date (March 15th). In the absence of an agreement and upon request, the Board will appoint a mediator. If the impasse persists 10 days after the mediator has been appointed, the Board shall appoint a fact-finder. Within 15 days, he shall serve the findings of fact on both parties. Within 5 days, both parties shall accept the findings of fact or submit the findings to the controlling body for acceptance or rejection. If after 10 days the dispute continues, the report is made public. If the impasse persists, either party may request and the Board shall arrange for binding arbitration. Arbitration will be based on final offer, issue by issue, considered by the fact-finder.

Grievance Procedure

This is a bargainable item and may provide for binding arbitration.

Management Rights

Specifies nine (9) management rights.

Strikes/Penalties

Strikes are not permitted. Any citizen within the district may seek injunctive action. Contempt could result in fines, ineligiblity for employment for 12 months, and discharge; de-certification of the organization for 12 months and fines.

Unfair Labor Practices

The law specifies 10 management and 10 labor unfair practices.

Individual Comments

Mr. John Beamer, Chairman, Iowa PERB

Strengths of Law

1. The three-step impasse resolution procedure.
2. Specificity of the "scope of bargaining."
3. Procedures leading to "closure."

Weaknesses of Law

Needs further clarification over what is "scope of bargaining."

Recommended Changes in Law

Law has served well. Major changes would be to require all parties to negotiate a two-year contract.

Unique Features of Law

Feels that the binding arbitration is the greatest feature of the law.

Dr. Theodore Davidson, Executive Director, Iowa School Boards Association

Strengths of Law

1. Management rights.
2. Scope of negotiations.
3. PERB is a strength -- has provided a consistency, has administered the law as a three-person board, not as a tripartite.
4. Either party has final appeal through courts.
5. Employee representatives must deal with the employer representative.

Weaknesses of Law

Binding arbitration -- technically it works, but philosophically it is a weakness.

Recommended Changes in Law

Ideally would like to eliminate binding arbitration. Would like to keep mediation and fact-finding, but develop a non-binding way to settle. Can live with the law as it is; it does not erode management's authority.

Mr. Dave Grosland, Asst. Director, Iowa Education Association

Strengths of Law

The law is good in that it establishes a procedure that protects both parties. Statutes limit the scope of bargaining, but not as severely as they could. Impasse procedures provide a rational way of resolving conflict. Few conflicts go to binding arbitration.

Weaknesses of Law

The time constraints placed against the bargaining and impasse procedures prevent calm and deliberate negotiations. The mediators are, in general, not well trained. Finally, the courts are ruling that if a scope issue is contrary to management rights, it is not a mandatory negotiable item.

Recommended Changes in Law

Would prefer that the scope language be changed to that of N.L.R.B. Would like to see the management rights section completely removed. Would like to see the timelines of when the process has to be completed modified.

Unique Features of Law

Likes the impasse sections. Item by item impasse resolution has advantages. Both parties must present reasonable offers. Eliminates rash and wild proposals.

Mr. Lyle W. Kehm, Exec. Director, Iowa Assoc. of School Administrators

Strengths of Law

The "no strike" provision of the law. The limitation of the negotiable items.

Weaknesses of Law

The "third party" decision -- i.e. binding arbitration. The arbitrator, to be employed, must maintain about a 50-50 record. Also, the negotiated "recall provision" does not allow principals seniority.

Recommended Changes in Law

Would like to make the scope of bargaining more restrictive; would like to limit to wages and fringes only. Feels that the impasse procedure is needlessly long; would remove either mediation or fact-finding.

Unique Features of Law

The three-phase impasse procedure.

Pennsylvania

Statute

The Public Employment Relations Act was enacted in 1970 and amended in 1976.

Employees Covered

The following groups of employees are covered: public elementary/secondary teachers, nonsupervisory instructional staff; public community college teachers, nonsupervisory instructional staff; public college/university teachers, and nonsupervisory instructional staff.

Administration of Law

The Pennsylvania Labor Relations Board (PLRB) consists of a three-member board serving on a part-time basis. The chairman earns $12,000.00 annually, and other members $11,000.00 annually. The PLRB is selected by the Governor with advice and consent of Senate. The powers and duties include to make, amend and rescind rules and regulations. It shall establish fact-finding boards, and other powers and duties are specifically provided for in the act.

Collective Bargaining Rights/Recognition

Public employees have the right to organize, form, join or assist in employee organization activities for the purpose of collective bargaining or to select an exclusive representative to bargain. They also have the right not to join, except as may be required pursuant to a maintenance of membership provision in a collective bargaining agreement. It is the duty of the employer to recognize the exclusive representative when properly certified by the PLRB. Collective bargaining is the performance of the mutual obligation of both parties to negotiate.

Dues Deduction

Dues deduction is a bargainable issue, but only for union or association members, and only by individual written agreement. Maintenance of contract would require those who agree to continue as long as contract is in force.

Scope of Collective Bargaining

The law requires meeting at reasonable times and conferring in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder, and the execution of a written contract incorporating any agreement reached, but such obligation does not compel either party to agree to a proposal or require the making of a concession. Public employers are also required to meet and discuss policy matters affecting hours, wages and terms and conditions of employment as well as their impact thereon, upon request of the employee representative.

Impasse Procedures

After a reasonable amount of negotiation, either party may request mediation. Reasonable is described as no more than 21 days, but in no event less than 150 days prior to budget submission deadline (June 30), and if mediation has not been used, both parties shall in writing call for services of Pennsylvania Mediation Bureau (PMB). Mediation shall continue so long as the parties have not reached agreement. No longer than 120 days prior to budget submission, PMB notifies PLRB that no agreement has been reached. PLRB must appoint fact-finder(s) (1 or 3). Not more than 40 days after PMB has notified PLRB, the fact-finding panel must send by registered mail the finding of fact to both parties and to the Board. Within 10 days both parties must notify the other whether or not they accept the findings of fact. If they do not, the panel shall publish the findings of fact. Not less than 5 or more than 10 days, the parties must again inform the Board and each other if they will accept the findings of fact. If not, the parties may submit to binding arbitration.

Grievance Procedure

The law specifies rights arbitration. Arbitration of disputes or grievances arising out of the interpretation of the provisions of the collective bargaining agreement is mandatory.

Management Rights

None are specified.

Strikes/Penalties

Strikes are legal under certain conditions. When all steps of the impasse procedure have been completed, strikes shall not be prohibited. However, should the strike present a clear and present danger or threat to life, safety or welfare of the public, the employer shall initiate legal actions. The employer may seek injunctive action which can lead to suspension, demotion or discharge of the employee, loss of salary, imprisonment or fine. In practice, this seldom happens. Before any penalties could be imposed, teachers or teacher organizations have the right of judicial review. Pennsylvannia leads the nation in the number of teacher strikes in recent years.

Unfair Labor Practices

Law specifies nine (9) employer and nine (9) employee unfair practices. Whenever it is charged by any interested party that any person has or is engaged in unfair practice, the Board, or any member or designated agent shall have authority to issue a complaint.

Individual Comments

Ms. Pat Crawford, Executive Director, Pennsylvania PLRB

Strengths of Law

Law is time-tested and workable. It has broad and comprehensible bargaining rights for both parties. Law is not over-specific and allows some room for interpretation.

Weaknesses of Law

Given the staff constraints of both the PMB and PLRB, the time constraints are not realistic.

Recommended Changes in Law

Structure presently separates the PMB and PLRB. Fact-finders should be part of PMB.

Unique Features of Law

Law is extremely effective. Contains all the basic elements that prescribe good bargaining: selection, representation, secret ballot, and unfair labor practices for both parties.

Mr. Joseph V. Oravitz, Executive Director, Pennsylvania School Board Association

Strengths of Law

The law has forced the organization and union to follow the process as prescribed by law.

Weaknesses of Law

The scope of bargaining needs to be carefully and tightly drawn. Terms and conditions of employment have been interpreted by the PLRB to be any item that affects personal rights or property rights to the position. PLRB has by its decisions allowed bargainable issues to exceed the original intent of the law. Strikes have been allowed over unbargainable issues.

Recommended Changes in Law

Scope of bargaining should read "hours, wages and fringe benefits." PLRB would be required to abide by wording of the statute. Timelines for impasse resolutions would be strictly met.

Unique Features of Law

The mediation, fact-finding, publicizing are good; bring pressure on both groups. The right to strike legalizes what previously had been done illegally.

Mr. Roger Erskine, Associate Executive Director, Penn. Education Association

Strengths of Law

Establishes a formal procedure with rules and regulations that permits parties to follow an orderly process in the problem resolution area. It is formalized to the extent that both parties know the rules. It has strengthened the educational process. Ninety (90) percent of the districts resolve prior to work stoppage.

Weaknesses of Law

P.S.E.A. has not sought any changes. Feels that the law, as is, is working well. Problems exist because parties cannot agree on issues.

Recommended Changes in Law

The law is fairly standard. The timelines force mediation. P.M.B. plays a strong role. At crunch time, need more mediators. Everyone wants to make it work.

Improvement of CB process

Must be a formalized process, set in law, to get the parties together. Must approach the process with a mature attitude to get the job done without "clubbing one another to death."

Mr. Al Tandy, President, Penn. Federation of Teachers

Strengths of Law

The law requires that the two parties go through meaningful bargaining. Allows the teachers the "right to strike."

Weaknesses of Law

Public is resentful of teachers who strike. Action can be enjoined if it is determined that the public welfare is in jeopardy. Unions feel this works to their disadvantage.

Recommended Changes in Law

Feels that it would be best to leave the law alone.

Minnesota

Statute

Public Employment Labor Relations Act was enacted in 1971 and last amended in 1982. Prior amendments occurred in 1973, 1974, 1976, 1977, 1978, 1979, 1980, 1981.

Employees Covered

This comprehensive collective bargaining law covers all public employees except elected public officials, National Guard personnel, emergency employees, part-time and temporary employees.

Administration of Statute

The Public Employment Relations Board (PERB) consists of five nonsalaried members appointed by the governor. The PERB usually meets once a month to hear and decide upon appeals of decisions made by the Bureau of Mediation Services. The governor also appoints a full-time salaried ($38,000) executive director of the Bureau of Mediation Services (BMS), which provides mediation services at no charge to the parties.

Collective Bargaining Rights/Recognition

The Minnesota statute provides public employees the right to "form and join labor or employee organizations, and the right not to form and join such organizations." The law further gives public employees the right by secret ballot to "designate an exclusive representative for the purpose of negotiating grievance procedures and the terms and conditions of employment." Public employees and public employers both have an "obligation to meet and negotiate in good faith" with each other regarding grievance procedures and the terms and conditions of employment.

Dues Deduction

The law mandates agency shop upon receipt by the BMS director and employer of a written notice of the fair-share fee (85% of regular membership dues) from the exclusive representative. Union members may also authorize dues checkoff.

Scope of Collective Bargaining

The scope of bargaining is "terms and conditions of employment" and means hours, compensation (except retirement contributions), fringe benefits, and the "employer's personnel policies affecting the working conditions of the employees." In the case of professional employees the term does not mean educational policies of a school district.

The following penalties apply to individual teachers and the teacher organization involved in a prohibited strike:

1. Teachers may be terminated by the employer.

2. Teachers shall not receive pay for the days which they strike.

3. Teacher organization shall lose its status as exclusive representative for two years.

4. Teacher organization shall be deprived of dues checkoff by employer for two years.

Unfair Labor Practices

A lengthy list of unfair labor practices, 11 for employers and 15 for employee organizations, are specified in the Minnesota Public Employment Labor Relations Act. The list includes for employers refusing to meet and negotiate in good faith, refusing to comply with grievance procedures contained in an agreement, and refusing to provide upon request... all information pertaining to the public employer's budget. For exmployees the list includes refusing to meet and negotiate in good faith, engaging in an unlawful strike, and picketing that unreasonably interferes with the ingress and egress to employer facilities.

Individual Comments

The following information consists of direct quotations or summarizations of two teacher organization representatives, one management organization representative, and one Bureau of Mediation Services (BMS) director regarding the functioning of the Minnesota CB law for public employees.

Unique Features of Law

1. A 1980 amendment to the CB law eliminated binding arbitration and permits employee strikes when specified impasse time-lines have been exhausted. Corresponding with this change in the CB statute, the number of teacher strikes increased from 0 (pre-amendment) in 1979-80 and 1980-81 to 35 (post-amendment) in 1981-2. (BMS director)

2. Binding arbitration of grievances (rights arbitration) is a mandated item in every CB agreement. (All respondents agreed)

3. A fair-share agreement is mandatory upon written request of the teacher organization representative. (teacher and management representative).

4. The current law represents "attempts to profit from many years of private sector collective bargaining." (teacher representative)

Strengths of Law

1. It's patterned after the private sector model. (BMS director and teacher representative)

2. "Teachers have the right to choose an exclusive bargaining agent, bargain and strike." (teacher representative)

3. "It has worked well." (teacher representatives)

4. "Since it was amended, I don't like our law." (management representative)

5. "It puts pressure on parties to settle (or strike) early in the school year." (teacher representative)

6. "There is uniformity in the duration (2 years ending June 30 of odd years) of all contracts." (teacher representative)

Weaknesses of Law

1. The time lines of the impasse procedure are artificial. (BMS director, one teacher representative and management representative)

2. "The time lines are unworkable--they can be implemented regardless of whether they (teacher organizations) bargain or not." (management representative)

3. "Good faith bargaining on the part of the MEA has been reduced --350 petitions for mediation in 1981 vs. 174 in the previous year." (management representative)

4. "Supervisory and confidential employee debate goes on." (BMS director)

5. "Not definitive enough on unfair labor practices and issues that can be bargained." (teacher representative)

6. "No cases have been brought to court over unfair labor practices." (teacher representative)

7. "Smaller organizations are unable to bargain as successfully and effectively." (teacher representative)

8. "It's a matter of parties learning to bargain under this law." (teacher representative)

Recommended Changes in Law

1. "The time table system of impasse procedures needs to be revised." (all respondents agreed)

2. "We've been improving it every year and it is structurally where we want it." (teacher representative)

3. "A stronger definition of unfair labor practices is needed." (teacher representative)

4. "Teacher organizations should not be permitted to file a "10-day intent to strike" notice unless the BMS has declared the parties to be at impasse." (management representative)

5. "If the teacher organization does not strike between the 11th - 30th day following their 10-day notice to strike, there should be a return to mediation." (management representative)

6. "The scope of bargaining should be tied down better." (BMS director)

Improvement of CB Process

1. "There is a real need for some sophisticated training of organization members involved in the collective bargaining process." (BMS Director)

2. "The PERB or BMS should be provided with an arsonal of alternatives for its discretionary use in resolving CB impasses on a case-by-case basis." (BMS director)

Wisconsin

Statute

The Municipal Employment Relations Act was enacted in 1959 and amended in 1971, 1973, and 1977. Two other statutes provide collective bargaining for state employees and police and firemen.

Employees Covered

All local (municipal) government employees and teachers are included. Independent contractors, supervisors, confidential employees, managers and executives are excluded.

Administration of Statute

The Wisconsin Employment Relations Commission was established by the Municipal Employment Relations Act in 1959. The Commission consists of three full-time board members appointed by the Governor and confirmed by the Senate. The three board members serve 6-year terms staggered every two years and their salaries range up to $50,000 per year. The commission has the following four functions: (1) determination of bargaining unit eligibility, (2) conduction of union elections, (3) adjudication of unfair labor practices, and (4) mediation of contract disputes.

Collective Bargaining Rights/Recognition

The Wisconsin statute grants municipal employees the right to "form, join or assist labor organizations, and to bargain collectively through representatives of their own choosing." Collective bargaining is defined as the "performance of the mutual obligation of a municipal employer, and the representatives of its employees, to meet and confer at reasonable time, in good faith,...with the intention of reaching an agreement, or to resolve questions arising under such an agreement."

Dues Deduction

A "fair-share agreement" may be negotiated by the two parties and means that the employees in the collective bargaining unit are required to pay this proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of all members." If such a fair-share agreement is negotiated, it must contain a "dues checkoff" provision. A payroll "service fee" deduction is therefore automatic for nonmembers of the union where a "fair-share" agreement exists.

Scope of Collective Bargaining

The scope of bargaining as set forth in the Municipal Employment Relations Act includes wages, hours, and conditions of employment. The Wisconsin Supreme Court has ruled that matters primarily related to wages, hours and working conditions are "mandatory" issues for bargaining, whereas matters primarily related to educational policy or management of the district are "permissive" issues for bargaining unless expressly prohibited.

Impasse Procedures

The Municipal Employment Relations Act contains two different lists of "methods for peaceful settlement of disputes." The first and older list, which consists of mediation and fact-finding, is seldom used presently; the second and more commonly used list consists of the following stages:

1. Notice of commencement of contract negotiations with WERC and presentation of initial proposals by both parties at an "open meeting."

2. Regular mediation is provided by the WERC upon request by either party.

3. If a dispute has not been settled after a reasonable period of negotiation, either party may petition the WERC to initiate mediation-arbitration.

4. Upon receipt of a written petition, the WERC investigates the impasse status and usually attempts to mediate the dispute. If mediation fails, each party must submit in writing a final offer of all mandatory issues (whole package) in dispute to the WERC.

5. A mediator-arbitrator is selected from a list of 5 (non-WERC staff) arbitrators submitted by WERC to each party. Each party alternately strikes off 4 names. Within 10 days of selection, the arbitrator establishes places and dates for meeting sessions. The "final offers" of each party serve as an initial basis for continued mediation and voluntary settlement of the dispute.

6. If the parties fail to reach a voluntary settlement, the arbitrator notifies both parties and the WERC that binding arbitration will be employed. An open meeting may be conducted explaining both parties' final offer. The arbitrator then adopts the final offer (whole package) of one party on all disputed issues, which then becomes part of the contract.

Grievance Procedures

The content of a grievance procedure must be bargained by the two parties and may include binding arbitration as the final step. The violation of a collective bargaining agreement is an unfair labor practice and perceived violations may either be filed with the WERC or dealt with via the grievance procedure of the contract.

Management Rights

There is no separate section devoted to management rights. Elsewhere the law does recognize that the "public employer must exercise its power and responsibilities to act for the government and good order of the municipality, its commercial benefit and the health, safety and welfare of the public."

Strikes/Penalties

Strikes by municipal employees are unlawful unless both parties withdraw their final offers during arbitration. Should this unlikely situation occur, the employee union may legally strike after giving a 10-day written notice. The law specifies the following penalties for an unlawful strike: (1) $10 per day fine per striker (2) labor union fine of $2 per day per members ($10,000 per day limit), (3) suspension of dues check-off agreement for 1 year, and (4) forfeiture of wages for striking days.

Unfair Labor Practices

The collective bargaining law specifies 7 employer and 6 employee unfair labor practices, including violation of the collective bargaining agreement. Complaints regarding the committing of an unfair labor practice are filed with the WERC.

Individual Comments

The following information consists of direct quotations or summarizations of two teacher organization representatives, two management organization representatives, and one PERB member regarding the functioning of the Wisconsin CB law for municipal employees.

Unique Features of Law

1. Wisconsin has the oldest state collective bargaining laws covering public employees. (PERB member)

2. Wisconsin has a PERB which is politically neutral in both theory and practice. (PERB member)

3. A 1978 amendment provides for the mediation-arbitration impasse procedures. (All respondents agreed)

Strengths of Law

1. It has eliminated strikes. (All respondents agreed)

2. There is "no anxiety or frustration at the beginning of the school year" for districts which have reached impasse. (management representative)

3. "It has brought about labor peace." (teacher representative)

4. "The law generally functions well." (teacher representative)

5. "Only mandatory subjects can go to arbitration." (management representative)

6. "It gives employees a rational way to settle through collective bargaining while continuing to work." (teacher representative)

Recommended Changes in Law

1. "Permit Strikes," (management and teacher representative)

2. "Change the criteria used by the arbitrator in making the award. The financial condition of districts is ignored." (management representative)

3. "All subjects which are present in existing contracts should be declared as mandatory topics of bargaining." (teacher representative)

4. "Need more mediators," (teacher and management representative) and "mediator and arbitrator should be a different person" (management representative).

5. "CB Process should continue when disputes arise over whether an issue is a mandatory or permissive subject for bargaining." (teacher representative)

Oregon

Statute

Public Employment Bargaining Act was enacted in 1973 and amended in 1975 and 1979. (Prior C.B. law enacted in 1963)

Employees Covered

Oregon's comprehensive public employee bargaining law covers employees of all state agencies, cities, counties, community colleges, school districts, special districts, public and quasi-public cooperations and public higher education. The coverage excludes elected officials, confidential and supervisory employees.

Administration of Statute

The Employment Relations Board (ERB) consists of three full-time members appointed by the governor to represent the interests of labor, management, and the public, respectively. They serve 4-year terms with a salary of $46,000. The board chairman receives $48,300 and is executive director of the State Conciliation Services (SCS). The SCS provides mediation service to the two parties when contract disputes arise.

Collective Bargaining Rights/Recognition

The Oregon statute grants public employees the right to "form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining." A labor organization certified by the ERB or recognized by the public employer is the exclusive representative of the employees. It is the purpose of statute "to obligate public employers, public employees and their representatives to enter into collective negotiations with willingness to resolve grievances and disputes relating to employment relations and to enter into written and signed contracts evidencing agreements resulting from such negotiations."

Dues Deduction

A fair-share agreement is permitted but must be bargained between the two parties and approved, as part of the contract, by a majority of employees in the bargaining unit. If such a fair-share agreement has been agreed to by the employer and exclusive representative, the payment-in-lieu-of-dues is automatically deducted from the salaries of nonmembers of the union.

Scope of Collective Bargaining

The scope of bargaining is "employment relations" and includes, "but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment." Topics not prohibited by law can also be bargained if both parties agree. Such topics are termed "permissive" subjects whereas those listed above are mandatory subjects for bargaining.

Impasse Procedures

If after a "reasonable period of negotiation" no agreement has been signed, either party "shall notify the board of the status of negotiations" and request mediation. Mediation is provided by the State Conciliation Service under the ERB at no charge to the parties and may include both mandatory and permissive subjects. If after 15 days of mediation the dispute has not been settled, either party may petition the ERB to initiate fact-finding. If the parties have not mutually selected their own fact-finder within 5 days after notification by the ERB, the Board submits a list of 5 names from which the two parties must alternately strike out four. (A panel of three fact-finders instead of one is provided if both parties so request.) While there is no time line for the the fact-finding hearings, the fact-finders' recommendations must be issued to both parties within 30 days after the hearings. Both parties have 5 days within which to accept or reject the recommendations. If rejected by one or both parties, the findings are publicized after 5 days. The cost of the fact-finding is shared equally by the two parties. The parties may voluntarily agree to binding arbitration at any time during or after fact-finding. Post fact-finding mediation can and frequently does occur where the dispute remains unresolved.

Grievance Procedure

The grievance procedure is to be negotiated between the two parties and may culminate in binding arbitration.

Management Rights

The Public Employment Bargaining Act does not specify nor mention management rights.

Strikes/Penalties

A legal strike may occur when the following conditions have been meet:

(1) The mediation and fact-finding procedures have been exhausted without a settlement.

(2) Thirty days have elapsed since the fact-finders recommendations were publicized by the ERB.

(3) A 10 days strike notice has been sent via certified mail to the employer and ERB stating the reasons for the intent to strike.

When an existing strike, or an imminent strike, creates a "clear and present danger or threat to the health, safety, or welfare of the public, the employer may petition the circuit court for equitable relief including, but not limited to, appropriate injunctive relief." Such relief shall include an order that the labor dispute be submitted to final and binding arbitration within 10 days of the court's order.

If an illegal strike occurs, the employer may petition the board for a declaration that the strike is unlawful. When the labor organization or individual disobeys an order of the "appropriate circuit court issued pursuant to enforcing an order of the ERB.... they shall be punished... and the amount of the fine shall be at the discretion of the court."

Unfair Labor Practices

The collective bargaining statute lists 9 employers and 6 employee practices, including violation of the contract. Complaints of unfair labor practices are filed with the ERB. The ERB serves a copy of the complaint upon the person so charged, investigates the matter, and sets up a hearing within 20 days of the complaint, if deemed warranted.

Individual Comments: The following information consists of direct quotations or summarizations of two teachers organization representatives, two management organization representatives, and one ERB chairperson regarding the functioning of the Oregon CB law for public employees.

Unique Features of Law

1. There was general consensus that the CB law was working well. (all respondents agreed)
2. A 30-day cooling off perid is required before a strike is permitted. (ERB chairperson)

Strengths of Law

1. It provides teachers the right to strike after a cooling off period. (all respondents agreed)
2. It provides a balance of power between the two parties---labor and management. (all respondents agreed)
3. It provides clear procedures which ERB has clearly spelled out. (all respondents agreed)
4. "It is modeled after the NLRA." (teacher representative)
5. "It contains important unfair labor practices." (teacher representative)
6. "It encourages a responsible attitude by both parties." (management representative)
7. "ERB is rarely overturned by the courts." (teacher representative)

Weaknesses of Law

1. "Scope may be too broad." (management representative)
2. "The 10-day strike notice is too long." (teacher representative)

3. "Fact-finding is abused and less positive now than 5 years ago." (teacher representative)

4. "Student discipline is considered as management policy." (teacher representative)

Recommended Changes in Law

1. "More authority should be given to the mediator." "Fact-finding should occur only if ordered by the mediator or both parties agree." (teacher representative)

2. "At one time we did not want a laundry list of items, (bargaining scope) but now maybe we do need a laundry list." (teacher representative)

3. Remove the phrase "other working conditions" from laws' scope of bargaining. (management representative)

Improvement of the CB Process.

1. A positive effect upon the CB process can be effected by shifting the emphasis from an adversarial relationship to a "collaborative, integrative problem-solving approach." Trust of and by both parties is an essential ingredient and a few school districts -- (e.g., Lebanon, North Clockamos, and West Lynn) are successfully using such an approach with input from both the Oregon Education Association and Oregon School Boards Association. -- (management representative)

California

Statute

Public Educational Employer-Employee Relations Act was passed in 1975 and and amended in July 1, 1981.

Employees Covered

There are four public employees bargaining statutes which cover state and local government employees, public school employees, employees of higher education, and firemen, respectively.

Administration of Statute

There is a five-member Public Employment Relations Board (PERB) appointed by Governor with advice and consent of the Senate. Each member serves on a full-time basis for a five-year term with an annual salary of $56,000. PERB employs 11 hearing officers and a staff of 80 employees. Mediators are state employees, but fact-finders are private employees.

Collective Bargaining Rights/Recognition

Public school employees have the right to join organizations of their own choice and to be represented by such organization in their professional and employment relationships with public school employers. It is the duty of both parties to meet and negotiate in good faith.

Dues Deduction

Upon written approval by the teacher, dues deduction can occur only for the exclusive representative unit.

Scope of Collective Bargaining

Scope is defined as matters relating to wages, hours of employment, and other terms and conditions of employment. "Terms and conditions of employment" mean health and welfare benefits, leave, transfer, and reassignment policies, safety conditions of employment, class size, procedures to be used in evaluation of employees, organizational security, procedures for processing grievances, and the layoff of probationary certificated employees.

Impasse Procedures

All initial proposals shall be presented in a public meeting. After a reasonable time (not defined), the employer shall in open meeting adopt its initial proposal. All voting shall be made public. Either party may declare impasse. If the PERB determines an impasse exists, it shall within 5 days appoint a mediator. (Payable by the PERB). If within 15 days the mediator has not caused settlement to be reached, either party may, in writing, request that there be a fact-finding panel. Each party selects a member. Within 5 days, the PERB selects a chairman.

Within 10 days, the panel shall meet with the parties. Within 30 days the panel shall make their findings of fact, which are advisory. The cost of chairman is to be borne by the PERB. The mediator may continue to work based upon the findings of fact and recommended terms of settlement.

Grievance Procedure

This is a negotiable item and the agreement may include procedures for final and binding arbitration. If the agreement does not include binding arbitration, both parties may agree to submit grievance to binding arbitration.

Management Rights

None are specified.

Strike/Penalties

Strikes are not permitted by public employees.

Unfair Labor Practices

There are 5 management and 4 labor unfair practices.

Individual Comments

Mr. Harry Gluck, Chairman PERB

Strengths of Law

Employees are now very caught up in having a voice in conditions of their employment. Hostility is dissipated when they are given a voice in matters that affect them. The law has generally had a good effect on both parties, each is now aware and sensitive to the other.

Weaknesses of Law

The law should clearly indicate whether strikes are legal or not. The law has created a great deal of litigation and the scope language is full of inherent misunderstanding.

Recommended Changes in Law

Would widen and broaden the scope language to make more subjects bargainable.

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APPENDIX K

EXPLANATION OF P.A. 82-107

Paragraph No. 1 of the legislation creates a duty to:

1. Administer recognition of exclusive representatives of units (elections).
2. Make determinations of appropriate units so that the employees within a given unit have an identifiable community of interests.
3. Make sure there are no units with professional and nonprofessionals except,
4. Upon petition of two or more professional and nonprofessional units an election must be held and if a majority of each group approve, professionals and nonprofessionals can be included in the same unit.

This means that:

1. The SESR decides what is a unit and this determination is final until a petition is filed by professional and nonprofessional employees saying "we all want to be in one unit".
2. Professional employees are all employees certified pursuant to Article 34.21 and 14C-8 of The School Code.
3. Nonprofessionals are all other school district employees including aides qualified under Section 10-22.34 of The School Code.

Paragraph No. 2 of the Act means:

1. A school board may recognize voluntarily, forever, without SESR certification so long as no petition is filed.
2. A petition may be filed with the SESR for certification as majority representative even though school board is recognizing voluntarily.

Paragraph No. 3 states that petitions for determinations of exclusive representation can be filed by:

A. An employee, employees, or any labor organization with evidence that 30% or more of the employees in a unit wish to be represented.
B. An employer requesting certification.

This paragraph also allows for decertification petitions to be filed by all of the above.

Paragraph No. 4 requires:

1. SESR investigate the petitions preliminarily by using ESR records or documentation provided by the district or the State Board of Education to determine if the 30% requirement has been met.
2. After the preliminary determination, notice of the filing, the opportunity to object and if objections, the date, time and place of a hearing must be given.
3. If there is no objection or if a finding after a hearing declares there are 30% in the petition, an election must be set.

Paragraph No. 5 sets the limitations that follow:

1. No election during the term of a contract unless a petition is filed between January 15 and February 15 of the last year of the contract.
2. Elections may be held no more frequently than every twelve months.

Paragraph No. 6 sets out procedures for the elections. Regional Superintendents may establish rules for the conduct of elections within the parameters previously set forth and following:

1. Elections must be by secret ballot.
2. Labor organizations must have evidence of support from 15% of the employees in the unit to be placed on the ballot.
3. The ballot must include the choice of "no representative."
4. Mail ballots may be used in rare occasions where a specific individual could not otherwise cast a ballot (hospitalization, etc.)

Paragraph No. 7 requires:

1. A majority of the ballots cast in order for a labor organization to be certified by the SESR.
2. If "no representative" receives a majority, there can be no exclusive bargaining representative for at least 12 months.
3. If no choice receives a majority, a run-off shall be conducted between the top two.
4. The SESR must certify within five working days after the final count unless the election is challenged.
5. In a challenge, the SESR must investigate and if he finds probable cause, set a hearing within two weeks of the date of the challenge.
6. If the challenge is upheld, a new election must be conducted.

The last paragraph of the law continues present exclusive bargaining agents until a petition is filed.

tlc 6567a

APPENDIX L

1982-83 SCHOOL TEACHERS STRIKES IN ILLINOIS

District	County	Teachers	Students	Total Days of Strike
Palatine #15	Cook	559	11,480	9
East St. Louis #189	St. Clair	1,000	21,487	13
West Chicago #94	DuPage	88	1,657	6
Palos Hills #230	Cook	325	6,100	5
Wheaton #200	DuPage	640	10,000	9
Wood River #15	Madison	70	980	6
Sparta #140	Randolph	110	2,300	7
Bremen #228	Cook	300	6,500	9
Hamilton #10	Hamilton	100	1,600	12
Lake Zurich #95	Lake	200	3,200	3
Paris #95	Edgar	100	200	12 *
Waukegan #60	Lake	661	14,337	3
Chester #139	Randolph	60	1,100	**
Total: 13 districts		4,203	80,941	94

* ongoing strike; out 12 days as of 10-14-82.

** teachers held a "blue thursday" with $\frac{1}{2}$ of staff calling in sick for two days.

1981-82 PUBLIC SCHOOL DISTRICTS WITH TEACHER WORK STOPPAGES

District Name	Enrollment	# of Certified Nonsupervisory Staff
1. Belleville #201	4,663	262
2. Bellwood #88	2,561	136
3. Edinburg #4	451	28
4. Elgin #46-U	24,927	1,280
5. Geneseo #228	3,341	166
6. Granite City #9	9,905	588
7. Harmony-Emge #175	948	48
8. Hillsboro #3	2,157	121
9. La Salle Elementary #122	771	45
10. Logan #110	76	5
11. Lombard #44	3,038	170
12. Marquardt #15	2,538	136
13. Neoga #3	921	56
14. O'Fallon Elementary #90	1,650	78
15. Pontiac-W. Holliday #105	695	35
16. Riverside-Brookfield #208	1,327	87
17. Savanna #300	1,226	62
18. Trico #176	1,055	56
19. Villa Park #45	3,800	207
20. Westville #2	1,438	96
21. Ziegler-Royalton #188	805	47
TOTALS	68,293	3,709

NOTE: The above listing of districts is primarily a composite of the Illinois State Board of Education's End of the Year Report and Recognition and Supervision's field staff records. The listing was also compared with the work stoppage records of the IEA, IASB, and IFT. District enrollments and number of full-time certified nonsupervisory staff are taken from the Fall Enrollment/Housing Report and Teacher Service Record, respectively.

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1980-81 PUBLIC SCHOOL DISTRICTS WITH TEACHER WORK STOPPAGES

District Name	Enrollment	# of Certified Nonsupervisory Staff
1. Athens #213	895	47
2. Barrington #220	6,658	394
3. Belleville #118	2,862	162
4. Benton #47	1,377	65
5. Bloom #206	4,702	233
6. Carlinville #1	1,711	93
7. Carlyle #1	1,576	70
8. Carrollton #1	854	42
9. Carterville #5	1,466	70
10. Collinsville #10	6,383	376
11. Community H.S. #94 (West Chicago)	1,530	90
12. Consolidated H.S. #230 (Palos Hills)	6,086	355
13. East Richland #1	2,507	158
14. East St. Louis #189	21,569	1,130
15. Elverado #196	611	38
16. Evergreen Park #231	1,054	38
17. Franklin #1	470	35
18. Harmony-Emge #175	969	51
19. Illini Bluffs #327	1,189	59
20. Johnston City #1	1,463	69
21. La Salle #122	799	50
22. Lena Winslow #202	1,051	68
23. Litchfield #12	1,763	97
24. Lombard #44	3,113	184
25. Massac #1	2,422	142
26. Meridian #101	1,181	91
27. Mt. Vernon #201	1,665	104
28. Murphysboro #186	2,727	149
29. New Trier #203	4,978	333
30. Olympia #16	2,518	135
31. Park Forest #163	2,736	160
32. Sherrard #200	1,640	93
33. St. Joseph-Ogden #305	453	30
34. Thornton #205	8,368	517
35. West Sub. Special Ed. Co-op #99	202	55
36. Wheaton #200	10,258	574
TOTALS	111,786	6,357

NOTE: The above listing of districts is primarily a composite of the Illinois State Board of Education's End of the Year Report and Recognition and Supervision's field staff records. The listing was also compared with the work stoppage records of the IEA, IASB, and IFT. District enrollments and number of full-time certified nonsupervisory staff are taken from the Fall Enrollment/Housing Report and Teacher Service Record, respectively.

LH:mi 7648a

1979-80 PUBLIC SCHOOL DISTRICTS WITH TEACHER WORK STOPPAGES

District Name	Enrollment	# of Certified Nonsupervisory Staff
1. Anna-Jonesboro #81	666	42
2. Aptakisic-Tripp #102	570	39
3. Arbor Park #145	1,450	71
4. Benton #103	735	42
5. Brimfield #309	735	36
6. Calumet City #155 (Wentworth/Wilson)	834	44
7. Champaign #4	8,582	556
8. Charleston #1	3,154	137
9. Chicago #299	447,339	25,419
10. Community Cons. #59 (Arlington Hts./Elk Grove)	7,238	409
11. Community H.S. #218 (Worth/Blue Island)	6,923	389
12. Danville #118	8,220	501
13. De Soto #86	245	13
14. Dupo #196	1,449	90
15. East Maine #63	3,855	232
16.*Egyptian #5	835	62
17. Elmwood Park #401	2,603	156
18. Evanston #65	7,084	456
19. Galena #120	1,234	67
20. Gillespie #7	1,559	88
21. Granite City #9	11,043	617
22. Highland Park #107	968	62
23. Johnston City #1	1,442	68
24. Leaf River #270	497	24
25. Lincoln #404	1,210	77
26. McHenry #15	2,954	149
27. Meridian #101	1,265	83
28. Millstadt #160	550	28
29. Naperville #203	12,369	645
30. Niles Twp. H.S. #219	5,450	33
31. North Palos #117	3,298	157
32. Park Ridge #64	3,572	200
33. Robinson #2	2,145	107
34. Sparta #140	2,291	133
35. Springfield #186	15,871	925
36. Summit (Argo) #104	1,304	91
37. Thornton Fractional #215	3,509	213
38. Wesclin #3	1,486	65
39. West Sub. Special Ed. Co-op #98	223	55
40. Westmont #201	2,001	121
TOTALS	608,758	33,007

NOTE: The above listing of districts is primarily a composite of the Illinois State Board of Education's End of the Year Report and Recognition and Supervision's field staff records. The listing was also compared with the work stoppage records of the IEA, IASB, and IFT. District enrollments and number of full-time certified nonsupervisory staff are taken from the Fall Enrollment/Housing Report and Teacher Service Record, respectively.

*One-day strike of noncertified personnel. There was no school, because most students are transported.

1978-79 PUBLIC SCHOOL DISTRICTS WITH TEACHER WORK STOPPAGES

District Name	Enrollment	# of Certified Nonsupervisory Staff
1. Benton #47	1,314	69
2. Brookwood (Glenwood) #167	1,727	90
3. Cairo #1	1,207	101
4. Charleston #1	3,171	135
5. Collinsville #10	7,247	382
6. Community H.S. #218 (Worth/Blue Island)	7,346	398
7. Crete Monee #201	5,373	311
8. Dolton #149	3,267	188
9. E. Chicago Heights #169	1,438	87
10. Edwardsville #7	5,073	242
11. Elgin #46	25,626	1,274
12. Elmwood #322	824	49
13. Evanston #65	7,550	512
14. Gurnee #56	1,122	61
15. Highland Park #108	2,587	152
16. Lincolnwood #74	1,234	111
17. Marquardt #15	2,667	157
18. North Pekin #102 (Marquette Heights)	1,025	52
19. Paris-Union #95	2,111	124
20. Rockford #205	34,253	1,991
21. S. Metro Assn. (Spec. Ed. Co-op) #801	669	110
22. Teutopolis #50	1,347	74
23. Thornton #205	9,472	548
24. Waterloo #5	1,816	84
TOTALS	129,466	7,302

NOTE: The above listing of districts is primarily a composite of the Illinois State Board of Education's End of the Year Report and Recognition and Supervision's field staff records. The listing was also compared with the work stoppage records of the IEA, IASB, and IFT. District enrollments and number of full-time certified nonsupervisory staff are taken from the Fall Enrollment/Housing Report and Teacher Service Record, respectively.

There was a total of 26 work stoppages. Benton #47 and Waterloo #5 experienced two work stoppages each during the school year.

LH:mi 7648a

1977-78 PUBLIC SCHOOL DISTRICTS WITH TEACHER WORK STOPPAGES

District Name	Enrollment	# of Certified Nonsupervisory Staff
1. Abingdon #217	1,375	65
2. Belleville #118	3,118	158
3. Belleville #201	5,819	282
4. Carbondale #95	1,797	104
5. Chicago Ridge #127-5	1,440	77
6. Danville #118	8,852	523
7. Franklin Park #84	1,327	89
8. Freeport #145	6,349	337
9. Illini Bluffs #327	1,132	61
10. Jerseyville #100	3,659	195
11. Orland Park #135	2,856	126
12. Paris-Union #95	2,230	123
13. Sandwich #430	1,691	90
14. Seneca #160	314	24
15. Tolono Community Unit #7	1,695	88
16.*Trico #176	1,118	55
TOTALS	44,832	2,397

NOTE: The above listing of districts is primarily a composite of the Illinois State Board of Education's End of the Year Report and Recognition and Supervision's field staff records. The listing was also compared with the work stoppage records of the IEA, IASB. and IFT. District enrollments and number of full-time certified nonsupervisory staff are taken from the Fall Enrollment/Housing Report and Teacher Service Record, respectively.

*One day bus driver strike. There was no school, because most students are transported.

APPENDIX M

POSITIONS OF THE PARTIES INVOLVED IN TEACHER/BOARD BARGAINING

On May 5 and August 10, 1982, SBE staff in both Chicago and Springfield met with a representative group of professionals who are actively involved in teacher/board bargaining throughout Illinois. The expressed purpose of bringing these practitioners together was to initiate informal discussions concerning the current status of teacher/board bargaining in public schools. The meeting agenda also called for the seeking of both oral and written comments and recommendations from each group as to positions the State Board of Education could consider in regards to any proposed bargaining legislation.

The following are some excerpts of comments and observations made by the meeting participants.

"Recognition is not a major cause of strikes. We in Illinois should amend P.A. 82-107 to clear up the process of granting recognition."

"A collective bargaining law with the right to strike would be no problem with some safeguards built in."

"Interest arbitration intrudes upon the parties - forces people into mechanics with no latitude. Arbitrators don't have enough school business to do the job."

"Collective bargaining is here in Illinois. The question is should the right to strike be legally provided."

"We should amend P.A. 82-107 and provide a mandate for recognition. We should address the issue of signature cards and community of interest."

"We need to get away from the current problem of (57) fifty-seven local states attorneys interpreting the statute." (P.A. 82-107).

"The next major issue of any bill will be the permitted scope of bargaining. We would have to grandfather in all existing contract provisions."

"Current SBE policy that school districts amend calendars in order to make up school time lost due to strike is a great disadvantage to school boards and of benefit to the unions..." "Docking of teachers' salaries discourages teacher strikes."

"Teachers are not to blame for school strikes...what about the responsibility of the school board?"

"Some type of penalty should be placed on teachers who strike."

"The Taylor Act in New York has never served as a deterrent to strikes. There will always be strikes in education."

"The voluntary arbitration process (interest) does work."

"The State Board of Education is impartial on the required school year."

"The State Chamber of Commerce is in support of a collective bargaining statute."

"One important key is if there is to be a statute that we create an expert central agency. This body could look at unfair labor practices and also impasse procedures."

"There is the problem of interest arbitration which tends to have a chilling effect upon the bargaining process."

"There are problems with scope of bargaining that are tied to nondelegation of school board authority."

"The nondelegation issue would be resolved by a statute. (i.e., ultra vires issue of board would be settled.)"

"Any statute would have to provide standards for the arbitrator. The lawful authority of the board should be protected."

"We (IEA) are interested in getting a law passed whether or not the State Board of Education gets behind it."

"We (IFT) will support a law that includes all educational employees (i.e., teachers and other educational workers including higher education."

"Some state and county politicians do not want a bill because they would have to give up patronage."

"We (IFT) see a bill being passed soon and would like to get the IEA involved. We have no pride in authorship and could get behind a mutually acceptable bill. We do reject P.A. 82-107 as it does not even assure recognition following representation elections."

On September 21, 1982, an SBE-sponsored conference of Illinois school superintendents was held in Springfield at which the question of a statewide collective bargaining statute was the subject of a panel discussion. The following are excerpts of observation and comments offered by panelists who were present.

"The IEA will continue to attempt to fill legislative gaps with collective bargaining bills."

"Teachers want legislation that will provide:

1. recognition of exclusive agent
2. unit determination
3. broad scope of bargaining
4. binding arbitration of grievances
5. remedies for unfair labor practices

6. the right to strike
7. coverage of all educational employees
8. inclusion of all school districts whether large or small."

"The IEA and the IFT will be working more closely in future efforts to pass a bill."

"The war that has been waged in the legislature to stop collective bargaining bill has had 'Star Trek' implications."

"The legislature never intended to pass a nullity, and some members are concerned about the lack of recognition of teacher organizations despite the fact that there have been a number of representational elections through P.A. 82-107."

"The inevitability of a collective bargaining bill becoming law was given more credence by the fact that the Illinois Junior College Association has now expressed support for such legislation."

"In the private sector, entities with less than one million dollar annual budgets are not subject to the N.L.R.A."

"In Illinois there is not much left to bargain about. If there is to be a law, we (management) might support some procedures for collective bargaining such as:

1. impasse provisions; however, mandatory intervention would create havoc as people would not bargain but instead would position for presentation to the neutral.

2. Some supervision of unfair labor practices.

3. Unit determination, however, supervisory employees should be excluded."

"We teachers will not be excluded from the decision-making process of education."

"If we all knew the rules of bargaining, we would all do it better."

tlc 6565a

APPENDIX N

SCHOOL DISTRICT COMPLIANCE WITH
MINIMUM CALENDAR REQUIREMENTS FOLLOWING A TEACHER STRIKE
A TELEPHONE INTERVIEW

Respondent Name_____ Title_____

Agency Name & Address_____

City & State_____ Telephone #:_____

GENERAL AND STRIKE INFORMATION

Districts in State (1980-1)_____.

Total student enrollment (1980-1)_____.

teacher strikes/work stoppages

(70-1)_____ (71-2)_____ (72-3)_____ (73-4)_____ (74-5)_____

(75-6)_____ (76-7)_____ (77-8)_____ (78-9)_____ (79-80)_____

(80-1)_____ (81-2)_____

Total # of teacher strike days (1980-1)_____ (1981-2)_____

STATE LAWS AND TEACHER STRIKES

Do you have a collective bargaining state law pertaining to teachers?

Yes_____ No_____

If yes, does some part of this law refer to teacher strikes?

Yes_____ No_____

If yes, describe what it says about teacher strikes.

_____
_____
_____
_____

Describe the impasse procedures specified in the CB statute.

_____
_____
_____
_____
_____
_____

SCHOOL OPERATION DURING TEACHER STRIKES

During a teacher strike, are districts permitted to hold school, if the school board (administration) so desires?

Yes_____ No_____

If yes, do school districts typically (usually) continue to operate during a teacher strike?

Yes_____ No_____ Explain_____

If a district does operate during a teacher strike, what standards must be met in order for it to be credited with a legal school day?

_____
_____
_____
_____

Does the SEA conduct an on-site visitation if a district operates during a teacher strike?

Yes_____ No_____ Explain_____

RECOVERY OF LOST STRIKE DAYS

Is there a minimum number of teacher/instructional days which districts in your state are required to meet?

Yes_____ No_____

If yes, what is the minimum number of days required of school districts?

_____

districts which did not meet the required minimum number of school days because of a teacher strike (1980-1) _____.

Total # days these districts were below the minimum required (1980-1)

_____.

If districts fall below this minimum number because of a teacher strike, what is the course of action taken by the SEA? (What penalties are assessed?)

DLN/1262h

APPENDIX O

SURVEY OF TEACHER STRIKE INFORMATION

LIST OF TELEPHONE RESPONDENTS

State	Name	Title
California	Roger Wolford	Legal Consultant (SEA)
California	Steve Parodi	School Apportionment (SEA)
California	Bob Bennet	Field Mnag. Ser. Bur. (SEA)
California	Wm. Smith	Chief Adm. Law Judge (PERB)
California	Doug Watson	Calif. Sch. Bd. Assoc.
California	Dr. Bob Asnard	Res. Director (CTA)
Michigan	Faith Bishop	Dir. Tenure & Negotiations (SEA)
Pennsylvania	Dr. Philip Van Briggle	Strike Manag. Coordinator (SEA)
Ohio	Dr. Roger Lulow	Asst. Supt. (SEA)
Ohio	Dr. Bob Bowers	Deputy Supt. (SEA)
Minnesota	Raymond Peterson	Assoc. Comm. of Ed. (SEA)
Minnesota	Peter Obermeyer	Dir. of Bur. of Med. Services
Oregon	Al Davidson	Exec. Asst. to St. Supt. (SEA)
Oregon	Larry Mylnechuk	Legal Consultant (SEA)
Wisconsin	Roland Rockwell	Dir. of Sch. Finances Serv. (SE
Wisconsin	Max Ashwill	Legal Consultant (SEA)
Wisconsin	Peter Davis	Attorney Emp. Rel. Comm. (WERC)
Iowa	Larry Bartlett	Legal Consultant (SEA)
Iowa	Dave Bechtel	Adm. Asst. (SEA)
Iowa	Sue Schreurs	Deputy Council (PERB)
Texas	Dr. Raymon Bynum	Comm. of Ed. (SEA)
New York	Vito Longo	Supv. Sch. Empl./Tch. Rel.
New York	Dr. Brian Walsh	Adm. of Ed. Manag.
ECS	Doris Ross	Research and CB Specialist
NEA	Don Walker	Research Unit
NEA	Howard Carroll	Info. Services
NEA	Carolyn Wallace	Info. Services
NW Reg. Lab.	Larry Picus	Dir. of Strike Alternative Survey
BLS	Bureau of Labor Statistics	Work Stoppages in Government (1972-1980)
BNA	Bureau of National Affairs'	Stike Table (1976-1981)
AFT	James Ward	Director of Research
Ed. Res. Serv.	David Cobb	Info. Specialist

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Felton Jose, *Kaskaskia*
Nancy Giovannoni, *Kishwaukee*
David Ransom, *Lake*
Ronald Gronewold, *Northwest*
Earl Edmonds, *Shawnee*
Dorothy Groh, *Southwestern*
James Sellmyer, *Starved Rock*
Harvey Lewis, *Three Rivers*
Pauline Meyer, *Two Rivers*
Harold Liston, *Wabash Valley*
Nancy Elson, *Western*
Denene Wilmeth, *Chairman*
Large District Council

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Field Services, Lombard
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Illinois Association of School Boards

IASB

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APPENDIX P
(3 items)

September 10, 1982

Dr. Leo E. Hennessy
Assistant Superintendent
Department of Recognition and Supervision
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

Dear Leo:

This letter will outline the position of the Illinois Association of School Boards on the major issues we presume will be considered as the State Board of Education develops a collective bargaining bill for legislature consideration. At the outset I must question whether it is wise for the Board to put forth this initiative. There are many issues of great concern to the education community and we need the State Board's leadership to pull us together. Collective bargaining legislation, however, does not fall in that category. The State Board's proposal will undoubtedly please none of the major interests and will place the Board in the middle of an often heated battle. That may well be where the Board wants to be, but it seems to me there is a great risk that their leadership capacity in more crucial areas will be diminished. Since the decision to proceed will not likely be revised, I will outline our position in the following areas: (1) strikes, (2) administrative agency, (3) impasse provisions, (4) scope of negotiations, (5) unfair practices, (6) unit determination, (7) size of unit, (8) agency shop/union security, and (9) resolution of grievances.

STRIKES

If the State of Illinois desires to grant collective bargaining to school district employees as a matter of public policy and intends for bargaining to operate with at least some of the effectiveness found in the private sector, then it will be difficult not to grant at least a limited right to strike.

There are, however three preconditions which must be met if even a limited right to strike is to be made permissible for school employees under statute:

1) The compulsory student attendance law must be revised so that there is no mandatory state aid loss for districts which teach fewer than 176 days per year.

2) Courts must be empowered on behalf of any citizen or the public employer to grant an injunction against a strike on the finding that such a strike or its continuance presents a danger to health, safety, or welfare of the public, accompanied with stern, automatic, and effective penalties for noncompliance with the injunction.

3) Just as employers in the private sector are free to replace striking employees, so school boards should retain this right to counterbalance the power of the union.

Without these preconditions, we are unalterably opposed to any legislation incorporating even a limited right to strike.

ADMINISTRATIVE AGENCY

The need for a "Public Employee Relations Board" to administer a bargaining statute is questionable, and IASB is opposed to granting broad statutory powers to any administrative agency.

If a "teacher only" bargaining bill is considered, there is no reason to establish another expensive governmental agency. Experience shows that the parties involved and the courts are capable of adequately handling any problems that may arise. Neutrals (arbitrators, mediators, etc.) are available to the schools through other agencies and have proved capable of dealing with both impasse and contract interpretation disputes resulting from teacher negotiations. Duplication of these functions by the State of Illinois would be unwarranted and wasteful.

If, however, the legislation covers all public employees, then there may be a need for an administering agency. Such a Public Employee Relations Board (PERB) should be concerned only with the processing of unfair labor practice charges and the determination of bargaining units and their majority-status representatives. Neutrals for mediation and arbitration should be drawn from existing independent agencies (i.e., American Arbitration Association or Federal Mediation and Conciliation Service) rather than from the Department of Labor or any special bureau established under the jurisdiction of PERB.

IMPASSE PROVISIONS

We are unalterably opposed to mandatory third-party intervention which directly deprives the parties in collective bargaining, by publicity or legal compulsion, of their decision-making responsibility. Boards should not be allowed to delegate their authority to make decisions on the content of the collective agreement to a third-party arbitrator. Therefore, we are opposed to any form of mandatory factfinding or compulsory arbitration of contract terms.

We are not opposed to voluntary, consensual mediation. Past experience in the schools has proved mediation to be effective in resolving difficult disputes.

SCOPE OF NEGOTIATIONS

The broad, general "traditional" definition of what is negotiable - "hours, wages, and other terms and conditions of employment" - might be acceptable and workable. Courts and PERB boards in other states and the National Labor Relations Board (NLRB) in the private sector have afforded guidelines (sometimes conflicting) as to the meaning of "conditions of employment." Illinois would, over a period of time, fashion its own definitions within this broad context.

However, the Legislature should specifically address itself to the relationship between bargainable subject matter and state statutes giving school boards certain broad discretionary powers.

Recent Illinois Supreme Court decisions (notably, the **Davis** and **Junior College** cases) pose clear-cut conflicts between the typical bargaining agreement and the boards' rights under statute.

If the Legislature is interested in maintaining intact the discretionary powers and local control of school boards, any bill under consideration must include a strong "employer prerogative" clause.

Multi-year agreements have a great deal of merit and can provide a period of tranquility between negotiations over successive contracts. Therefore, it is our recommendation that boards of education be specifically empowered to make collective bargaining agreements up to, but not to exceed, three years.

UNFAIR PRACTICES

Any collective bargaining legislation should specify unfair labor practices which are prohibited for both employers and employees. Specific unlawful practices will naturally depend upon scope and content of the statute. For example, if strikes and mandatory union membership provisions are prohibited, encouragement of such by unions should be forbidden in this section. IASB recommends the following unfair practices language which is roughly consonant with that provided in the private sector by the National Labor Relations Act:

A. It shall be unfair practice for public employers, their agents and representatives to:

   1. Interfere with, restrain, or coerce public employees in the exercise of the rights guaranteed in this Act.

   2. Dominate or interfere with the formation, existence, or administration of any employee organization; provided that this subsection shall not be construed as prohibiting a public employer from permitting public employees to confer with it during working hours without loss of time or pay.

3. Discriminate in regard to hiring, tenure of employment or any term or condition of employment in order to encourage or discourage membership in any employee organization.

4. Discharge or otherwise discriminate against a public employee because he has signed or filed an affidavit, petition, complaint, or given any information or testimony under this Act.

5. Refuse to bargain collectively in good faith with an employee organization which is the exclusive bargaining representative of employees.

6. Refuse to reduce a collective bargaining agreement to writing or to sign such agreement.

7. Violate any of the rules and regulations established by the Board regulating the conduct of representation elections.

B. It shall be an unfair practice for employee organizations, their agents or representatives, and public employees, to:

1. Restrain or coerce employees in the exercise of the rights guaranteed in this Act.

2. Restrain or coerce a public employer in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances.

3. Refuse to bargain collectively in good faith with a public employer, if the employee organization is the exclusive bargaining representative of employees in an appropriate unit.

4. Refuse to reduce a collective bargaining agreement to writing and to sign such agreement.

5. Violate any of the rules and regulations established by the Board regulating the conduct of representation elections.

6. Fail to represent fairly all employees in the bargaining unit.

UNIT DETERMINATION

IASB is opposed to any management employees being covered under any statute. Not only should management employees be excluded from rank-and-file employee units, but the law should not accord any bargaining rights or status to separate units of management employees. This is not done in the private sector under the National Labor Relations Act (NLRA) and there is no reason why it should be done in the public sector.

In the school context, an acceptable definition of supervisory and/or management personnel, to be excluded from rank-and-file units, is as follows: Eligibility to vote in any election for choice of representative and inclusion in the negotiating unit will be limited to all certificated professional personnel in the district actually engaged in fulltime positions which are not, in whole or in part, administrative or supervisory in nature. Supervisory positions are those which require their incumbents, among other things, as any part of their jobs to act or recommend action in the interest of the board with respect to any of the following: hiring, assigning, transferring, promoting, evaluating, rehiring or failing to rehire, laying off or recalling, or disciplining of any employees or implementation or administration of the collective agreement at any level in the organization or adjustment of grievances at any level. The word "teachers," as used in this Act, denotes that entire group which is defined as eligible for voting and/or inclusion in the unit to be represented by the employee organization.

No single bargaining unit should include both professional employees and nonprofessional employees unless a majority of employees in each group vote for inclusion in the unit.

A recommended definition of a "professional employee" follows:

A) Any employee engaged in work (1) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (2) involving the consistent exercise of discretion and judgment in its performance; (3) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (4) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

B) Any employee who (1) has completed the courses of specialized intellectual instruction and study described in clause (4) in paragraph (A), and (2) is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in paragraph (A).

SIZE OF UNIT

The NLRB has consistently upheld the inapplicability of mandatory collective bargaining for small employers. The Board's jurisdictional tests exclude small businesses and industries from the provisions of the National Labor Relations Act. The most relevant NLRB decision was in relationship to private colleges and universities and provides for a one million dollar jurisdictional standard for these educational institutions. IASB strongly recommends that a

similar standard be incorporated into any statute, thereby removing the obligation to bargain from small, inadequately prepared school districts.

AGENCY SHOP AND UNION SECURITY

The advantages of union security clauses to management in the private sector (union discipline, prevention of wildcat strikes, etc.) would seem to be relatively unimportant to public sector employers, including school districts. The concept of agency shop or any other form of mandatory support of membership violates and is contradictory to the concept of employment on merit. Union membership or support as a mandated precondition for public employment is unwarranted and unnecessary.

We are opposed to any form of mandatory membership or support being either required or even permissible as is now possible under P.A. 82-107. Rather, we recommend that any collective bargaining legislation should expressly prohibit such clauses in collective contracts.

RESOLUTION OF GRIEVANCES

Binding and advisory arbitration as a final step in determining if there has been a violation, misapplication, or misinterpretation of the collective bargaining agreement can be useful if reserved and inherent management rights are clearly delineated in the statute and/or contract. The most any statute should do is enable the parties to legally agree to binding arbitration or grievances if they both agree to do so at the bargaining table.

Acceptability to us of binding arbitration of grievances is contingent upon whether the rest of any statute proposed is consistent with our recommendations, particularly regarding the non-negotiability of important discretionary powers of the board of education.

Let me close by stating our desire that Illinois not replicate the problems encountered by other states in this highly sensitive area. Rather, we hope that the Illinois State Board of Education and the General Assembly will give careful study to these important aspects when drafting a collective bargaining bill.

Sincerely,

Hal Seamon

Harold P. Seamon
Executive Director
ILLINOIS ASSOCIATION OF SCHOOL BOARDS

HPS/lk

HOUSE BILL 1345

82nd GENERAL ASSEMBLY

State of Illinois

1981 and 1982

Filed April 6, 1981, By Representative McPike

SYNOPSIS

(New Act)

This Act establishes the right of educational employees to organize and bargain collectively, and creates the Illinois Educational Labor Relations Board to administer the Act. Effective July 1, 1982.

LRB8203744BDcb

Fiscal Note Act
may be applicable

131

A BILL FOR

115

HB1345

LRB8203744BDcb

AN ACT to establish the right of educational employees to organize and bargain collectively, to define and resolve unfair practice disputes and to establish the Illinois Educational Labor Relations Board to administer the Act.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Policy. It is the public policy of this State and the purpose of this Act to promote orderly and constructive relationships between all educational employees and their employers. Unresolved disputes between the educational employees and their employers are injurious to the public, and the General Assembly is therefore aware that adequate means must be established for minimizing them and providing for their resolution. Recognizing that harmonious relationships are required between educational employees and their employers, the General Assembly has determined that the overall policy may best be accomplished by (1) granting to educational employees the right to organize and choose freely their representatives; (2) requiring educational employers to negotiate and bargain with employee organizations representing educational employees and to enter into written agreements evidencing the result of such bargaining; and (3) establishing procedures to provide for the protection of the rights of the educational employee, the educational employer and the public.

Section 2. Definitions. As used in this Act:

(1) "Educational employer" or "employer" means any school district, combination of school districts, state supported school, community college, college or university governing boards and any state agency whose major function is providing educational services to the public schools of Illinois.

(2) "Educational employee" or "employee" means any

individual employed by an educational employer, but shall not include elected officials and appointees of the Governor with the advice and consent of the Senate.

(3) "Employee organization" means an organization of any kind in which membership includes educational employees, and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, employee-employer disputes, wages, rates of pay, hours of employment, or conditions of work, but shall not include any organization which practices discrimination in membership because of race, color, creed, national origin or political affiliation.

(4) "Exclusive representative" means the labor organization which has been designated by the Illinois Educational Labor Relations Board as the representative of the majority of educational employees in an appropriate unit, or recognized by an educational employer prior to the enactment of this Act as the exclusive representative of the employees in an appropriate unit or, after such enactment, recognized by an employer upon evidence that the employee organization has been designated as the exclusive representative by a majority of the employees in an appropriate unit.

(5) "Board" means the Illinois Educational Labor Relations Board.

(6) "Supervisor" means any individual having authority in the interests of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, reward or discipline other employees or responsibility to direct them or adjust their grievances; or to a substantial degree effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature but calls for the use of independent judgment.

(7) "Unfair practice" means any practice prohibited by Section 12.

(8) "Person" includes an individual, educational employee, educational employer, legal representative, or employee organization.

(9) "Wages" means salaries or other forms of compensation for services rendered.

Section 3. Employee Rights. It shall be lawful for educational employees to organize, form, join or assist in employee organizations or to engage in lawfully concerted activities for the purpose of collective bargaining or other mutual aid and protection or to bargain collectively through representatives of their own free choice and such employees shall also have the right to refrain from any or all such activities.

Section 4. Illinois Educational Labor Relations Board. There is hereby created the Illinois Educational Labor Relations Board consisting of 3 members appointed by the governor with the advice and consent of the Senate. One appointed member shall be designated at the time of his appointment to serve as Chairman. Initial appointments shall be made within 30 days of the effective date of this Act. At the organizational meeting of the original Board, the members shall determine by lot one member to serve for a term of 6 years, one member to serve for a term of 4 years, and one member to serve for a term of 2 years, with each to serve until his successor is appointed and qualified.

(1) Each subsequent member shall be appointed in like manner for a term of 6 years and until his successor is appointed and qualified. Each member of the Board is eligible for reappointment. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term.

(2) Two members of the Board constitute a quorum and a vacancy on the Board does not impair the right of the 2 remaining members to exercise all of the powers of the Board.

(3) Any member of the Board may be removed upon notice

and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(4) The salary of the chairman shall be $3,000 per year greater than the salary of the other members of the Board. The annual salary of such other members shall be $2000 less than the annual salary of judges of the Circuit Court of Cook County.

(5) The Board shall have authority to employ such personnel as may be necessary to administer this Act and to make expenditures within the appropriation provided.

(6) To accomplish the objectives and to carry out the duties prescribed by this Act, the Board may subpoena witnesses, subpoena the production of books, papers, records and documents which may be needed as evidence on any matter under inquiry, and may administer oaths and affirmations.

In cases of neglect or refusal to obey a subpoena issued to any person, the court in the county in which the investigations or the public hearing are taking place, upon application by the Board, may issue an order requiring such person to appear before the Board, or any member or agent thereof to produce evidence or give testimony about the matter under investigation. A failure to obey such order may be punished by the court as in civil contempt.

Any subpoena, notice of hearing, or other process or notice of the Board issued under the provisions of this Act may be served personally, by registered mail or by leaving a copy at the principal office of the respondent required to be served. A return, made and verified by the individual making such service and setting forth the manner of such service is proof of service. A post office receipt, when registered mail is used, is proof of service. All process of any court to which application may be made under the provisions of this Act may be served in the county wherein the persons required to be served reside or may be found.

(7) The Board shall adopt, promulgate, amend or rescind

such rules and regulations, pursuant to the "Administrative Procedure Act", approved September 22, 1975, as now or hereafter amended, as it deems necessary and feasible to carry out the provisions of this Act. A public hearing shall be held on any proposed rule or regulation of general applicability designed to implement, interpret, or prescribe policy, procedure, or practice requirements under the provisions of this Act, and on any proposed change to such existing rule or regulation. Reasonable notice must be given prior to such hearings, which must include the time, place, and nature of such hearing and also the substance of the proposed rule or regulation or the changes to such rule or regulation. The board shall also recommend any needed changes in the provisions of this Act or related Acts.

(8) Illinois Educational Labor Mediation Roster. The board shall establish an Illinois Educational Labor Mediation Roster, the services of which are available to the public employer and to labor organizations for purposes of mediation of grievances or contract disputes, and for purposes of arbitration of disputes over the interpretation or application of the terms of the written agreement. The members of the roster shall consist of qualified impartial individuals who may not be employees of the Board.

Section 5. Representation. (1) Educational employers may select representatives to act in their interest in any collective bargaining with representatives of educational employees.

(2) (a) An educational employer may recognize employee representatives for collective bargaining purposes, provided the parties jointly request certification by the board which shall issue such certification if it finds the unit appropriate.

(b) Any employee group which has a valid written agreement and is recognized as the exclusive bargaining representative on July 1, 1982, shall so continue without the

requirement of any election and certification until such time as a question concerning representation is appropriately raised under this Act; or until the board finds the unit not to be appropriate after challenge by the educational employer, a member of the unit or an employee organization.

Section 6. Elections. (1) An educational employee, a group of educational employees or an employee organization may notify the educational employer that 30% or more of the educational employees in an appropriate unit desire to be exclusively represented for collective bargaining purposes by a designated representative and request the educational employer to consent to an election.

(2) If the educational employer consents, the educational employee, group of educational employees or employee organization, whichever may be applicable, may submit in a form and manner established by the Board an election request. Such request shall include a description of the unit deemed to be appropriate, the basis upon which it was determined that 30% or more of the employees desired to be represented and a joinder by the educational employer. The Board may on the basis of the submissions order an election to be held or it may at its discretion investigate or conduct hearings to determine the validity of the matters contained in such submissions before determining whether or not an order should issue.

(3) If an educational employer refuses to consent to an election, the party making the request may file a petition with the Board alleging that thirty percent or more of the educational employees in an appropriate unit wish to be exclusively represented for collective bargaining purposes by a designated representative. The Board shall send a copy of the petition to the educational employer and provide for an appropriate hearing upon due notice. If it deems the allegations in the petition to be valid and the unit to be appropriate it shall order an election. If it finds to the

contrary it may dismiss the petition or permit its amendment in accordance with procedures established by the Board.

(4) The Board shall determine the appropriateness of a unit which shall be the educational employer unit or a subdivision thereof. In determining the appropriateness of the unit, the Board shall:

(a) Take into consideration but shall not be limited to the following: (i) educational employees must have an identifiable community of interest, and (ii) the effects of over-fragmentization.

(b) Not decide that any unit is appropriate if such unit includes both professional and nonprofessional employees, unless a majority of such professional employees vote for inclusion in such unit.

(c) Take into consideration that when a State agency is the employer, it will be bargaining on a Statewide basis unless issues involve working conditions peculiar to a given educational employment locale. This Section, however, shall not be deemed to prohibit multi-unit bargaining.

(5) Representation elections shall be conducted by secret ballot at such times and places selected by the Board subject to the following:

(a) The Board shall give no less than ten days notice of the time and place of such election.

(b) The Board shall establish rules and regulations concerning the conduct of any election including but not limited to regulations which would guarantee the secrecy of the ballot.

(c) A representative may not be certified unless it receives a majority of the valid ballots cast.

(d) The Board shall include on the ballot a choice of "no representative".

(e) In an election where none of the choices on the ballot receives a majority, a run-off election shall be conducted, the ballot providing for a selection between the

two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(f) The Board shall certify the results of said election within five working days after the final tally of votes if no charge is filed by any person alleging that an "unfair practice" existed in connection with said election. If the Board has reason to believe that such allegations are valid, it shall set a time for hearing on the matter after due notice. Any such hearing shall be conducted within two weeks of the date of receipt of such charge. If the board determines that the outcome of the election was affected by the "unfair practice" charged, it shall require corrective action and order a new election. If the board determines that no unfair practice existed or if it existed, did not affect the outcome of the election, it shall immediately certify the election results.

(g) (i) No election shall be conducted pursuant to this Section in any appropriate bargaining unit within which in the preceding twelve-month period an election shall have been held nor during the term of any lawful collective bargaining agreement between a public employer and an employee representative. This restriction shall not apply to that period of time covered by any collective bargaining agreement which exceeds three years. For the purposes of this Section, extensions of agreements shall not affect the expiration date of the original agreement.

(ii) Petitions for elections may be filed with the Board not sooner than ninety days nor later than sixty days before the expiration date of any collective bargaining agreement or after the expiration date until such time as a new written agreement has been entered into. For the purposes of this Section, extensions of agreements shall not affect the expiration date of the original agreement.

Section 7. Right to organize and bargain collectively. Exclusive representation.

(1) Representatives selected by educational employees in a unit appropriate for collective bargaining purposes shall be the exclusive representative of all the employees in such unit to bargain on wages, hours, terms and conditions of employment: Provided, that any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have them adjusted without the intervention of the bargaining representative as long as the adjustment is not inconsistent with the terms of a collective bargaining contract then in effect: And, provided further, That the bargaining representative has been given an opportunity to be present at such adjustment.

(2) The provisions of "An Act relating to disputes concerning terms and conditions of employment", approved June 19, 1925, as now or hereafter amended, shall apply to disputes arising between public employers and labor organizations covered by this Act.

(3) If there is a duly certified representative: (i) an educational employee or a group of educational employees may file a petition for decertification provided it is supported by a 30% showing of interest, or (ii) an educational employer alleging a good faith doubt of the majority status of said representative may file a petition in accordance with the rules and regulations established by the Board, subject to the provisions of Clause (G) of Section 605.

Section 7. Scope of Bargaining. (1) Collective bargaining is the performance of the mutual obligations of the educational employer and the representative of the educational employees to meet at reasonable times and confer in good faith with respect to wages, hours and other terms and conditions of employment, or the negotiation of an agreement or any question arising thereunder and the execution of a written contract incorporating any agreement reached but such obligation does not compel either party to

agree to a proposal or require the making of a concession.

(2) Educational employers shall not be required to bargain over matters of inherent managerial policy, which shall include such areas of discretion or policy as the functions of the educational employer, standards of services, its overall budget, the organizational structure and selection and direction of personnel. Educational employers, however, shall be required to meet and discuss policy matters affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by educational employee representatives.

(3) The parties to the collective bargaining process shall not effect or implement a provision in a collective bargaining agreement if the implementation of that provision would be in violation of, or inconsistent with, or in conflict with any statute or statutes enacted by the General Assembly of Illinois.

Section 9. Collective Bargaining Impasse. (A) No educational employees employed by an educational employer shall withhold services to an educational employer until at least 30 days after the employee organization representing a majority of the employees in the unit has requested the Board for fact-finding and mediation of a dispute existing between the educational employer and the employee organization.

(B) (1) If, after a reasonable period of negotiation over the terms of an agreement or within 30 days of expiration of an existing collective bargaining agreement, a dispute concerning the collective bargaining agreement exists between the employer and an employee organization, either party may petition the Board to initiate mediation and fact-finding.

(2) Within three days of receipt of such petition, the Board shall appoint a panel of three qualified disinterested persons selected from the Illinois Educational Labor Mediation Roster, as defined in paragraph (8) of Section 4,

to serve as the fact-finders. The fact-finders must act independently of the Board. In case of minor disputes, as determined by the Board, the Board shall appoint one person from the Illinois Educational Employees Labor Mediation Roster to act as the fact-finder.

(3) The person or persons selected or appointed as fact-finder shall immediately establish the dates and place of hearings. Upon request, the Board shall issue subpoenas for hearings conducted by the fact-finder. The fact-finder may administer oaths. Upon completion of the hearings, but no later than 20 days from the day of appointment, or within such additional periods to which the parties may agree, the fact-finder shall make written findings of facts and recommendations for resolution of the dispute and shall serve such findings on the educational employer and the employee organization involved.

(4) The educational employer and the employee organization which is certified as exclusive representative or which is recognized as exclusive representative in any particular bargaining unit by the educational employer involved are the only proper parties to fact-finding proceedings.

(5) The cost of fact-finding proceedings (except the costs of the parties and the fees of the attorneys for the parties) shall be borne by the Board.

(6) Nothing in this Section prohibits the fact-finder form endeavoring to mediate the dispute in which he has been selected or appointed as fact-finder.

(7) Nothing in this Act or in any other Act prohibits the use of other mediation or arbitration tribunals selected by the parties to the agreement for the resolution of disputes over the interpretation or application of the terms or conditions of collective bargaining agreements between educational employers and employee organizations.

(8) Nothing shall prevent an employer and exclusive

bargaining representative from submitting to final and binding impartial arbitration unresolved issues over the terms of a new collective bargaining agreement between the parties.

Section 10. Collective Bargaining Agreement. (1) Once an agreement is reached between representatives of the educational employees and the educational employer, the agreement shall be reduced to writing and signed by the parties.

(2) Arbitration of disputes or grievances arising out of the interpretation of the provisions of a collective bargaining agreement is mandatory. The procedure to be adopted is a proper subject of bargaining with the proviso that the final step shall provide for a binding decision by an arbitrator or a tripartite board of arbitrators as the parties may agree.

(a) If the parties cannot voluntarily agree upon the selection of an arbitrator, the parties shall notify the Board of their inability to do so. The Board shall then submit to the parties the names of 7 arbitrators. Each party shall alternately strike the first name. The person remaining shall be the arbitrator.

(b) The costs of arbitration shall be shared equally by the parties. Fees paid to arbitrators shall be based on a schedule established by the Board.

Section 11. Strikes. (1) Strikes by educational employees during the pendency of collective bargaining procedures set forth in Section 9 are prohibited.

(2) If a strike by educational employees occurs after the collective bargaining processes set forth in Section 9 of this Act have been utilized it shall not be prohibited.

Section 12. Unfair Practices. (1) Educational employers, their agents or representatives are prohibited from:

(i) Interfering, restraining or coercing employees in the exercise of the rights guaranteed in Sections 3 and 7 of

this Act.

(b) Dominating or interfering with the formation, existence or administration of any employee organization.

(c) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employee organization.

(d) Discharging or otherwise discriminating against an employee because he has signed or filed an affidavit, petition or complaint or given any information or testimony under this Act.

(e) Refusing to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(f) Refusing to reduce a collective bargaining agreement to writing and sign such agreement.

(g) Violating any of the rules and regulations established by the Board regulating the conduct of representation elections.

(h) Refusing to comply with the provisions of an arbitration award deemed binding under Section 10.

(2) Employee organizations, their agents or representatives or educational employees are prohibited from:

(a) Restraining or coercing employees in the exercise of the rights guaranteed in Sections 3 and 7 of this Act.

(b) Restraining or coercing an educational employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances.

(c) Refusing to bargain collectively in good faith with an educational employer, if they have been designated in accordance with the provisions of this Act as the exclusive representative of employees in an appropriate unit.

(d) Violating any of the rules and regulations

established by the board regulating the conduct of representation elections.

(e) Refusing to reduce a collective bargaining agreement to writing and sign such agreement.

(f) Refusing to comply with the provisions of an arbitration award deemed binding under Section 10.

Section 13. Prevention of Unfair Practices. (1) The board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair practice listed in Section 12 of this Act. This power shall be exclusive and shall not be affected by any other means of adjustment or prevention that have been or may be established by agreement, law or otherwise.

(2) Whenever it is charged by any interested party that any person has engaged in or is engaging in any such unfair practice, the board, or any member or designated agent thereof, shall have authority to issue or cause to be served upon such person a complaint, stating the charges in that respect, and containing a notice of hearing before the board, or any member or designated agent thereof, at a place therein fixed, not less than 5 days after the serving of said complaint. Any such complaint may be amended by the Board, member or agent conducting the hearing at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person, or otherwise, to give testimony at the place and time set in the complaint. In any such proceeding, the rules of evidence prevailing in courts of law or equity shall be followed but shall not be controlling.

(3) Testimony shall be taken at the hearing and filed with the board. The Board upon notice may take further testimony or hear argument. If, upon all the testimony taken, the board shall determine that any person named in the complaint has engaged in or is engaging in any such unfair

practice, the Board shall state its findings of fact, and issue and cause to be served on such person an order requiring such person to cease and desist from such unfair practice, and to take such reasonable affirmative action, including reinstatement of employees, discharged in violation of this Act, with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reasonable reports, from time to time, showing the extent to which the order has been complied with. If, upon all the testimony, the Board shall be of the opinion that the person or persons named in the complaint have not engaged in or is not engaging in any such unfair practice, then the Board shall make its findings of fact and shall issue an order dismissing the complaint. A copy of such findings of fact, conclusions of law, and order shall be mailed to all parties to the proceedings.

(4) Until a transcript of the record in a case shall have been filed in a court as hereinafter provided, the Board may at any time, upon reasonable notice, and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it; provided, that any agreement made between an employer and a bona fide employee organization, and all the provisions thereof, shall be entitled to full force and effect unless the Board specifically finds that these provisions involve the commission of an unfair practice within the meaning of Section 12 of this Act.

(5) The proceedings before the Board or before any of its examiners shall be conducted with speed and dispatch.

(6) All cases in which complaints are actually issued by the Board, shall be prosecuted before the Board or its examiner, or both, by the representatives of the employee organization or both, by the representatives of the employee organization or party filing the charge, and, in addition thereto or in lieu thereof, if the Attorney General sees fit,

by a Deputy Attorney General especially assigned to this type of case.

Section 14. Notwithstanding any of the provisions of Section 13, the Board upon the filing of a charge alleging the commission of an unfair labor practice committed during, or arising out of the collective bargaining procedures set forth in Section 9 of this Act, shall be empowered to petition the court of competent jurisdiction for appropriate relief or restraining order.

Upon the filing of any such petition the Board shall cause notice thereof to be served upon such person and thereupon the court shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.

Section 15. Judicial Review. (1) A charging party or any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may apply for and obtain judicial review of an order of the Board entered under this Act, including a refusal by the Board to issue a complaint, in accordance with the provisions of the "Administrative Review Act", approved May 8, 1945, as now or hereafter amended, except that such judicial review shall be afforded directly in the Circuit Court in the county in which the Board maintains the principal office. The Board in proceedings under this Section may obtain an order of the court for the enforcement of its order.

(2) Whenever it appears that any person has violated a valid order of the Board issued pursuant to this Section of this Act, the Board must commence an action in the name of the people of the State of Illinois by petition, alleging the violation, attaching a copy of the order of the Board, and praying for the issuance or an order directing the person, his officers, agents, servants, successors, and assigns to comply with the order of the Board. Upon the commencement of the actions, the Court may stay an order of the Board in

accordance with Section 12 of the "Administrative Review Act", pending disposition of the proceedings. The Court may punish a violation of its order as in civil contempt.

(3) The proceedings provided in paragraph (2) of this Section shall be commenced in the Circuit Court in the county where the unfair labor practice which is the subject of the Board's order was committed, or where a person required to cease an desist by such order resides or transacts business.

(4) The Board shall have the power, upon issuance of an unfair labor practice complain, to petition the Circuit Court where the alleged unfair labor practice which is the subject of the Board's complaint was allegedly committed, or where a person required to cease and desist form such alleged unfair labor practice resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the Court shall cause notice thereof to be served upon such person,, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.

Section 16. This Act shall take effect upon July 1, 1982.

...9 IN COMMITTEE ON
...& SEC. ED. BY REP.
McPeek

AMENDMENT TO HOUSE BILL 1345

AMENDMENT NO. 1. Amend House Bill 1345 on page 17, by inserting after line 19, the following:

Section 16. The General Assembly finds that pursuant to the exemption provided for in subsection (a) of Section 6 of the State Mandates Act, and the exclusions provided for in subparts (2) and (5) of subsection (a) of Section 8 of that Act, that the State is relieved of all reimbursement liability for the implementation of this Act."; and

in line 20, by deleting "Section 16." and inserting in lieu thereof:

"Section 17.".

AMENDMENT TO HOUSE BILL 1345

COMMITTEE ON
SPECIAL EDUCATION
McPike

AMENDMENT NO. 2. Amend House Bill 1345 on page 3, line 16, after "members" insert "who are residents of Illinois,"

on page 9, line 26, by deleting "05"

on page 12, line 21, after "strike" insert "a name until one name remains. The educational employer shall strike"

on page 15, line 33, by deleting "or both by the representatives of the employee organization"

On page 16, line 35, after "may" insert "grant or refuse, in whole or in part, the relief sought, provided the court"

150

SENATE BILL 646

SB0646

HOUSE

82nd GENERAL ASSEMBLY
State of Illinois

1981 and 1982

INTRODUCED 4/13/81, BY Demuzio

AMENDED

SYNOPSIS: (Ch. 122, pars. 9-12, 11-4 and 11-8)

Amends School Code. Removes provisions relating to representation from congressional townships on boards of community consolidated and community unit districts. Effective immediately.

LRB8202739PBjo

A BILL FOR

AN ACT to establish the right of public school employees to organize and bargain collectively, to define and resolve unfair practice disputes and to establish the Education Employment Relations Board to administer the Act.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Title. This Act is known and may be cited as the "Education Employment Relations Act".

Section 2. Policy. It is the public policy of this State and the purpose of this Act to promote orderly and constructive relationships between public school employers and their employees by encouraging the practice and procedure of collective bargaining and by protecting the exercise of workers of full freedom of association, self organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. To effect these ends, this Act is considered remediable in nature and should be applied and construed in a liberal fashion.

Section 3. Definitions. The terms used in this Act, unless the context requires otherwise, have the meanings ascribed to them in Sections 3.1 through 3.12.

Section 3.1. Board. "Board" means the Education Employment Relations Board appointed to supervise this Act.

Section 3.2. Employee. "Employee" means any individual or group of individuals employed by a public school employer except supervisors and employees of universities and colleges which are under "An Act to create the university civil service system of Illinois and to define its powers and duties", approved May 11, 1905, as amended.

Section 3.3. Supervisor. "Supervisor" means school superintendents, principals, college presidents and other persons with like duties or powers relating to employees,

including any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Section 3.4. Employer. "Employer" means any school district, combination of school districts, or state supported junior college, college or university governing boards conducting pre-primary through post-secondary educational programs.

Section 3.5. Labor organization. "Labor organization" is any organization of any kind in which public school employees participate and which exists for the purpose, in whole or in part, of dealing with public school employers concerning grievances, labor disputes, wages, rates of pay, hours or conditions of work.

Section 3.6. Exclusive bargaining representative. "Exclusive bargaining representative" means the labor organization which is the sole and exclusive negotiating agent under this Act.

Section 3.7. School year. "School year" is the regular annual education program which commences on the first day of scheduled student attendance after August 15 and before September 15.

Section 3.8. Unit. "Unit" or "exclusive bargaining unit" means any group of employees for which a representative is selected under this Act.

Section 3.9. Unfair practice. "Unfair practice" means any practice prohibited under Sections 17 or 18 of this Act.

Section 3.10. Strike. "Strike" means the concerted failure to report for duty, the willful absence from one's position, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the

duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, or compensation, or the rights, privileges or obligations of employment. Nothing in this Act limits, impairs or affects the right of any employee to the expression or communication of a view, grievance, complaint or opinion on any matter related to the conditions or compensation of employment, so long as it is not designed to and does not interfere with the full, faithful and proper performance of the duties of employment.

Section 3.11. Fact finders. "Fact finders" are qualified neutral persons, who are not employees of the Board and who conduct hearings and prepare written statements of findings and recommendations.

Section 3.12. Person. "Person" means any individual, public school employer, public school employee or labor organization.

Section 4. Education Employment Relations Board. There is created the Education Employment Relations Board consisting of 3 members appointed by the Governor with the advice and consent of the Senate. One appointed member shall be designated at the time of his or her appointment to serve as Chairman. Initial appointments shall be made within 30 days of the effective date of this Act. At the organizational meeting of the original Board, the members shall determine by lot one member to serve for a term of 6 years, one member to serve for a term of 4 years, and one member to serve for a term of 2 years, with each to serve until his successor is appointed and qualified.

Each subsequent member shall be appointed in like manner for a term of 6 years and until his successor is appointed and qualified. Each member of the Board is eligible for reappointment. Vacancies shall be filled in the same manner as original appointments for the balance of the unexpired term.

Section 5. Quorum, removal of members. Two members of the Board constitute a quorum and a vacancy on the Board does not impair the right of the 2 remaining members to exercise all of the powers of the Board.

Any member of the Board may be removed upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

Section 6. Compensation, additional personnel. The Chairman of the Board shall receive a salary of $45,000 a year, and each member of the Board shall receive a salary of $40,000 a year. No member of the Board may engage in any other business, vocation or employment, and each shall devote full time to the duties of the Board.

The Board may employ such personnel as may be necessary to administer this Act and may make expenditures within appropriations.

Section 7. Hearings, subpoenas. The Board has the authority and power to hold hearings, subpoena witnesses, administer oaths, and in connection therewith, to issue subpoena duces tecum to require the production and examination of any governmental or other books or papers relating to any matter pending before it and to take other action as may be necessary to discharge its powers and duties.

Any subpoena, notice of hearing, or other process or notice of the Board issued under this Act may be served personally, by registered mail or by leaving a copy at the principal office of the respondent required to be served.

In cases of neglect or refusal to obey a subpoena issued by the Board, the court in the county in which the investigations or public hearings are taking place, upon application by the Board, may issue an order requiring such person to appear before the Board, or any member or agent thereof, to produce materials or give testimony. A failure to obey such order may be punished by the court as a

contempt.

Section 8. General powers, rules. The Board has exclusive jurisdiction to exercise the powers and perform the duties which are provided for it in this Act. Those powers, duties and functions are in addition to and exercised independent of any powers and duties which may be granted to it by other law. The Board shall promulgate rules and regulations to carry out the provisions of this Act. Public hearings shall be held by the Board on any proposed rule or regulation of general applicability designed to implement or interpret this Act and on any proposed change to an existing rule or regulation. Reasonable notice must be given prior to such hearings, which notice must include the time, place, and nature of such hearings, and also the substance of the proposed rule or regulation or the changes to a rule or regulation.

Section 9. Mediator list. The Board shall maintain a list of mediators, consisting of qualified impartial individuals who may be full time or part time employees of the Board. Mediators are paid by the Board.

Section 10. Right to organize and bargain collectively. Employees of any public school employer have, and are protected in the exercise of, the right of self-organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other terms and conditions of employment and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection free from interference, restraint or coercion.

Section 11. Exclusive bargaining unit. A bargaining unit is qualified for purposes of collective bargaining so long as the unit contains employees with an identifiable community of interest. No unit shall include both professional employees and nonprofessional employees unless a majority of employees in each group vote for inclusion in the

unit.

Section 12. Selection of exclusive representative. A public school employer may voluntarily recognize a labor organization for collective bargaining purposes if that organization appears to represent the greatest number of employees, and such recognition shall continue pending certification by the Board that the labor organization represents a majority of employees in the unit. A labor organization may also gain recognition as the exclusive representative by an election of the employees in the unit, such election resulting from the petition procedure in this Section.

Petitions requesting an election may be filed with the Board:

A. by an employee or group of employees or any labor organization acting on their behalf alleging and presenting evidence that (1) 30% or more of the employees in any appropriate bargaining unit wish to be represented for collective bargaining; or (2) 30% or more of the employees in any appropriate bargaining unit assert that the labor organization which has been certified or recognized as the exclusive bargaining representative is no longer representative of a majority of the employees in the unit; or

B. by an employer alleging that (1) one or more labor organizations have presented a claim to be recognized as an exclusive bargaining representative of a majority of the employees in an appropriate unit; or (2) it has a good faith doubt of the majority status of an exclusive bargaining representative.

The Board shall investigate the petition and if it has reasonable cause to believe that a question of representation exists, it shall provide for a hearing upon due notice. If the Board finds upon the record of the hearing that a question of representation exists it shall direct an election. Nothing in this Section prohibits the waiving of

hearings by the parties and the conduct of consent elections under rules and regulations as may be prescribed under Section 8.

No election shall be conducted in any bargaining unit or subdivision thereof during the term of a valid collective bargaining agreement between an employer and an exclusive bargaining representative covering such unit or subdivision thereof, except the Board shall direct an election after the filing between January 15 and February 15 of a petition under this Section. Nothing in this Section prohibits the negotiation of a collective bargaining agreement between an employer and the exclusive bargaining representative covering a period not to exceed 3 years.

No election shall be conducted in any bargaining unit, or subdivision thereof, in which a valid election has been held within the preceding twelve-month period.

Section 13. Election, results, certification. The election shall be conducted by secret ballot. The Board shall establish rules and regulations for the conduct of elections, including, but not limited to, voter eligibility requirements, regulations guaranteeing the secrecy of the ballot and procedures for run-off elections. Only labor organizations supported by 15% or more of the employees in the bargaining unit are eligible for placement on the ballot. The Board shall give at least 30 days' notice of the time and place of the election to the parties. The ballot shall include, as one of the alternatives, the choice of "no representative". No mail ballots may be permitted by the Board except when for reasonable cause a specific individual would otherwise be unable to cast a ballot.

The labor organization receiving a majority of the valid ballots cast in a valid Board election shall be certified by the Board as the exclusive bargaining representative. If the choice of "no representative" receives a majority of the valid ballots cast, then the employer shall not recognize any

exclusive bargaining representative for at least 12 months. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted between the 2 choices receiving the largest number of valid votes cast in the election. The Board shall certify the results of the election within 5 working days after the final tally of votes unless a charge is filed by a party to the election setting forth allegations that improper conduct occurred which affected the outcome of the election. The Board shall promptly investigate the allegations, and if it finds probable cause to believe that the improper conduct occurred and could have affected the outcome of the election, it shall set a time for hearing on the matter after giving due notice. The hearing shall be conducted within 2 weeks after the Board receives the charge. If the Board determines, after hearing, that the alleged improper conduct in fact existed and that the outcome of the election was affected, it shall order a new election and shall have the power to order corrective action which it considers necessary to insure the fairness of the new election. If the Board determines upon investigation or after hearing that the alleged improper conduct did not exist or that if it existed, it did not affect the results of the election, it shall immediately certify the election results.

Section 14. Preexisting representative. Any labor organization that is the exclusive bargaining representative in an appropriate unit on January 1, 1981, shall continue as such until a new one is selected under Section 12.

Section 15. Duty to bargain. An employer and an exclusive bargaining representative, through appropriate officials or their representatives, have the obligations to negotiate in good faith and to meet and engage in collective bargaining.

The parties may include in the collective bargaining agreement a provision requiring employees in the collective

bargaining unit who are not members of the representative organization to pay their proportionate share of the cost of the collective bargaining process and contract administration measured by the amount of dues uniformly required of members. Such provision shall require the employer to deduct the amount of dues as certified by the employee representative organization from the earnings of the employees affected by said agreement to pay the amount so deducted to the employee representative organization.

Section 16. Multi employers. If the members of the exclusive bargaining unit are employed by more than one public school employer or by its administrative agencies, the public school employers and their agencies have a duty to bargain or be represented in the bargaining process so that a negotiated collective bargaining agreement is binding on all such public school employers and their administrative agencies.

Section 17. Employer unfair practices. It is an unfair practice for public employers, their agents and representatives, to:

1. interfere with, restrain or coerce public school employees in the exercise of the rights guaranteed in this Act;

2. dominate or interfere with the formation, existence, or administration or any labor organization;

3. discriminate in regard to hiring or the setting of terms or other conditions of employment in order to encourage or discourage membership in any labor organization;

4. discharge or otherwise discriminate against a public school employee because he has signed or filed an affidavit, petition, complaint or given any information or testimony under this Act;

5. refuse to bargain collectively in good faith with a labor organization which is recognized as the exclusive bargaining representative of its employees; or

6. refuse to reduce a collective bargaining agreement to writing and to sign such agreement.

Section 18. Labor organization unfair practices. It is an unfair practice for a labor organization to:

1. restrain or coerce a public school employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

2. refuse to bargain collectively in good faith with a public school employer, if the labor organization is the exclusive bargaining representative of the employees;

3. refuse to reduce a collective bargaining agreement to writing and to sign such agreement; or

4. restrain or coerce an employer in the exercise of rights guaranteed by this Act.

Section 19. Unfair practice procedure. Violations of Sections 17 or 18 are unfair practices which shall be dealt with by the Board as set forth in this Section.

A charge of unfair practice may be filed by an employer or a labor organization. If the Board after investigation by its agent finds that the charge states an issue of law or fact, it shall issue and cause to be served upon the person complained of a complaint which fully states the charges and thereupon hold a hearing on such charge or charges before the Board or a member thereof upon at least 5 days' notice to the parties. At hearing, the charging party may also present evidence in support of the charges and the person charged shall have the right to file an answer to the charges, to appear in person, or by attorney, and to present evidence in defense of the charges.

If the Board determines that the person charged has committed an unfair practice, it shall make findings of fact and shall be empowered to issue an order requiring the person charged to cease and desist from the unfair practice, and to take such affirmative action as will effectuate the policies of this Act. The order may further require the person to

make reports from time to time showing the extent to which he has complied with the order. No order shall be issued upon an unfair practice occurring more than 6 months prior to the filing of the charge alleging the unfair practices with the Board. If the Board finds that the person or persons charged have not committed any unfair practice, it shall make findings of fact and issue an order dismissing the charges.

The Board may petition the circuit court of the county in which the unfair practice in question occurred or where the person charged with the unfair practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief or restraining order.

Any party aggrieved by a final order of the Board under this Section may obtain review of such order in the circuit court.

Section 20. Grievance procedure. The exclusive bargaining representative and the employer shall negotiate a grievance procedure as a part of a collective bargaining agreement which applies to all employees in the unit.

The parties may at any time agree to provide the binding arbitration of disputes concerning the administration or interpretation of collective bargaining agreements.

Section 21. Impasse procedures, mediators. If the parties engaged in collective bargaining have not reached an agreement by 90 days prior to the scheduled start of the forthcoming school year, either or both of the parties shall notify the Board concerning the status of negotiations.

If after a reasonable period of negotiation and within 45 days of the scheduled start of the forthcoming school year, the parties engaged in collective bargaining have reached an impasse, either party may request mediation through the Board. Alternatively, the Board on its own initiative may offer mediation during this period. However, the services of the mediators shall continuously be made available to the employer and to the exclusive bargaining representative for

purposes of mediation of grievances or contract disputes and upon the request of either of the parties for purposes of mediation of disputes over the interpretation or application of the terms of a written agreement. Such mediation shall be provided by the Board and shall be held before qualified impartial individuals. Nothing in this Act prohibits the utilization of other individuals or organizations such as the Federal Mediation and Conciliation Service, or the American Arbitration Association selected by both the exclusive bargaining representative and the employer.

If the parties engaged in collective bargaining fail to reach an agreement within 15 days of the scheduled start of the forthcoming school year and have not requested mediation, the Board shall invoke mediation.

Section 22. Fact-finding. The Board shall establish upon consultation with labor organizations and employers a list of fact-finders.

At any time within 25 days before the start of the forthcoming school year, the parties may mutually request the Board to invoke fact-finding. Within 3 days of receipt of such request, the Board shall appoint a fact-finder.

The person or persons appointed as fact-finder shall immediately establish the dates and place of hearings. Such hearings are not public meetings within "An Act in relation to meetings". Upon request, the Board shall issue subpoenas for hearings conducted by the fact-finder. The fact-finder may administer oaths. Upon completion of the hearings, but no later than 30 days from the day of appointment, the fact-finder must make written findings of fact and recommendations for resolutions of the dispute, must serve such findings on the public school employer and the employee or labor organization involved, and must publicize such findings by mailing them to all local news media.

The employer and the exclusive bargaining representative are the only proper parties to fact-finding proceedings.

The costs of fact-finding proceedings (except the individual costs of the parties and the fees of the attorneys for the parties) shall be borne by the Board.

Nothing in this Section prohibits the fact-finder from endeavoring to mediate the dispute in which he has been selected or appointed as fact-finder.

Section 23. Refusal to follow procedure. Refusal by the employer or an exclusive bargaining representative to follow the procedures set forth in Sections 21 and 22 is a refusal to bargain in good faith under this Act. Unfair practice charges alleging such violation may be filed by either party or the Board may, on its own motion and upon notice to the parties, initiate unfair practice proceedings. However, the filing of a charge or initiation of proceedings under this Section does not toll the time within which the procedures of Sections 21 and 22 operate, and the parties shall continue to bargain and to observe those procedures unless otherwise ordered by the Board after hearing or unless the conditions of Section 25 have been met.

Section 24. Arbitration. At any time within 30 days prior to the scheduled start of the forthcoming school year an employer may agree with an exclusive bargaining representative to submit to binding arbitration before a third party of their mutual selection any outstanding offers, counter-offers or proposed provisions of a collective bargaining agreement. The award of the third party is binding upon the employer and the representative and shall be incorporated in a collective agreement.

Section 25. Strikes. Employees included within a unit for which an exclusive bargaining representative has been recognized or which are represented by an exclusive bargaining representative under this Act shall not engage in a strike except under the following conditions:

1. the applicable procedures under Sections 21 and 22 of this Act have been utilized without success;

2. at least 5 days have elapsed after a notice of intent to strike has been given by the exclusive bargaining representative to the employer and to the Board; and

3. the collective bargaining agreement between the parties, if any, has expired.

If, however, in the opinion of an employer a strike is or has become a clear and present danger to the health or safety of the public, it may initiate in the circuit court of the county in which such danger exists an action for relief which may include, but is not limited to, injunction. The court may grant appropriate relief upon the finding that such clear and present danger exists. An unfair practice or other evidence of lack of clean hands by the public school employer is a defense to such action. The jurisdiction of the court under this Section is limited by "An Act relating to disputes concerning terms and conditions of employment", approved June 19, 1925.

Section 26. Legal status of recognized bargaining representatives. For purposes of this Act, a labor organization may act in its own name and sue or be sued as an entity and on behalf of the employees whom it represents. Any money judgment against a labor organization is enforceable only against the organization as an entity and against its assets, and is not enforceable against any individual member or his assets. No money judgment is enforceable against any assets of a labor organization which are held solely for the purpose of providing pension or insurance benefits.

Section 27. This Act takes effect upon its becoming a law.

FIGURE 1. NUMBER AND PERCENTAGE OF DISTRICTS WITH NEGOTIATION AGREEMENTS BY COUNTY

Note:
Shaded areas show a high concentration of school districts with negotiation agreements and meet the following criteria:

(1) Contiguous counties must have a total of at least 6 districts with agreements, and

(2) At least 40% of the districts in each county must have agreements.